■ Charles Murray on The Underclass in Jail
■ Nicholas Lemann on Neoliberalism Without a Heart

The Washington Monthly

DECEMBER 1985/$2.50

JAMES DAVID BARBER ON RATIONALIZING TORTURE

DAVID IGNATIUS ON THE U.N.'S PAPER PEACEKEEPERS

JAMES FALLOWS ON CRIME, GENES & CULTURE

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HOW LESS LEAD IN GASOLINE WILL AFFECT YOUR CAR

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Tip: Use only enough octane to avoid frequent knocking. An occasional "ping" won't harm the engine.

The new lower-lead gasolines should *always* be used in:

- 1971-78 trucks over 6,000 lbs.
- post-1978 trucks over 8,500 lbs.

The effect of alcohol blends. To meet the new regulations, oil refiners will turn to other methods to maintain or increase octane ratings. Some will elect to refine gasoline more intensively. Others may add octane enhancers such as ethanol and methanol (more informally known as grain alcohol and wood alcohol).

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LETTERS

Wick on WORLDNET

Mark Schapiro's article, "Is Anybody Out There Watching," in your October issue appears to be based on a misunderstanding of USIA's daily WORLDNET transmissions to Western Europe. In sum, Mark is simply off the mark.

He concludes there is a fuzziness about WORLDNET's purposes. Its purposes are those of USIA itself—to explain clearly and gain support abroad for U.S. policies and to improve international understanding of the United States as a nation, culture and society. We have always done that at USIA in traditional ways. Now, with the great revolution in technology affecting television (satellites, cable, DBS, video home recorders), there are opportunities for reaching an enormous foreign audience. It is a difficult challenge because it means our ideas, policies and society must be explained visually, yet not superficially. The evidence is clear that more and more people around the world receive their information and form their opinions based on what they see on television. We take pride that ours is the first government to create an international satellite network, and both our allies and adversaries are paying us the compliment of imitation.

Mr. Schapiro also seems unaware that the first and second hours of our daily WORLDNET transmissions are aimed at very different audiences. The first hour of the transmission is geared primarily to the burgeoning cable systems in Western Europe, not to the commercial or public television networks or audiences in embassies. Cable is just getting underway in Europe. If we were to wait until cable is fully developed and audiences for it already formed in Europe, then it would be too late to secure placement of our programming. We are currently reaching cable audiences in the U.K., Luxembourg and the Netherlands. Germany will shortly come on line, to be followed by other West European countries. We are also providing the show "America Today" to the International Hotel in Geneva and the SAS Hotel in Copenhagen.

The second hour of the transmission is reserved for the interactives—live press conferences with leading U.S. government officials or specialists. These programs are primarily directed to journalists who, in turn, do stories for their newspapers, radio stations, and television networks. (We have also done WORLDNET interactives on cultural, scientific, and medical subjects for specialists.) Journalists, as well as academics and government officials, are invited to attend the interactives at the embassies, and they do so regularly. We do not expect them to be interested in attending the transmission of our daily newscast and documentaries, which, as explained above, are meant for direct pick-up by cable systems. Therefore, it is no surprise that there were no French visitors at the embassy in Paris on the days Mr. Schapiro was there. There were not meant to be any. Mr. Schapiro apparently did not attend a single interactive during his travels in Europe. Otherwise, he would have met European journalists at the embassies covering WORLDNET.

It is the interactives which are meant to achieve placement on regular commercial and public networks (although not meant to compete with the work of European correspondents in Washington) and WORLDNET material is used extensively by European networks. Mr. Schapiro quotes representatives of the BBC and West German television to the effect that they do not use WORLDNET material. However, they do. Just a few examples that come to mind: West Germany's ZDF network used ten minutes of the September 12 interactive with Ambassador Robert Oakley on the subject of terrorism, and BBC-TV ran a six-minute excerpt from Treasury Secretary Baker's April 24 WORLDNET and a five-minute excerpt from a March 21 WORLDNET featuring Senator Richard Lugar and Congressman Dante Fascell. As any American or European TV network official can confirm, 10, 6, and 5 minutes are extraordinary amounts of time. Also, during the past two months, more than two hours of WORLDNET have been used on the major national

OWEN WISTER

– Darwin Payne –

Payne . . . examines in detail the writer who elevated the cowboy to folk hero, and also provides a study of America's privileged class in the late 19th century. Wister's circle of friends included Theodore Roosevelt, Henry James, Oliver W. Holmes Jr., John Jay Chapman and Frederic Remington. . . . a fine biography of a complex individual.

— Publishers Weekly

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networks in Belgium, Spain, Denmark, Sweden, and Portugal, to name a few.

CHARLES Z. WICK
Director, United States Information Agency
Washington, D.C.

Mark Schapiro replies:

The subject of my article was not the two-year-old program of "interactive" interviews, which some European journalists describe as a success. I wrote about the new daily WorldNet programming of pre-packaged news and feature stories, to which the reaction has ranged from indifference to hostility. Among those I interviewed for this story were USIA officials in Europe, who informed me that they were shifting their efforts to cable only after their unsuccessful attempts to sell the show to European public and commercial television networks.

Koch cries 'foul'

Ah, sweet irony! In his October review of *The News at Any Cost*, Tom Goldstein's book about journalistic ethics, Nicholas Lemann invents a fiction about me and attributes it to Mr. Goldstein's book.

Mr. Lemann says in his review: "[Koch] often calls the editorial page editor of Murdoch's *New York Post* and dictates the editorials about himself, which run verbatim." This story does not appear in Mr. Goldstein's book. And with good reason—I have never done that and no newspaper would print such an editorial. I do occasionally seek editorial support for my policies, or for pending legislation in the City Council or State Legislature, by bringing the facts to the editorial writers' attention. That includes all the papers of New York.

Tom Goldstein makes the point in his book that reporters must abide by higher standards of accuracy than they now do. The point applies equally to book reviewers who, perhaps for ideological reasons, invent canards instead of reporting the facts.

EDWARD I. KOCH
Mayor
New York, New York

Nicholas Lemann replies:

I didn't make up the story about Mayor Koch and the *Post* editorials; it was in the galley proofs from which I wrote my review. Here's the pertinent passage from the galleys:

> "Koch certainly liked the *Post*, and it was convenient for him to enjoy its undiluted support. Either he or—more likely—a member of his staff could dictate an editorial to Bruce Rothwell, editor of the *Post*'s editorial page. Rothwell, who died in 1984, took it down in shorthand, and most of the time the *Post* would run it as dictated."

Goldstein cut about a page of material, including this, between galleys and the final version of the book, so Mayor Koch is right that the story doesn't appear in the book.

Virtually all book reviews are written from galleys, and most are written before the hardcover book has even been printed. But there's a line of fine print on every galley proof that says all references from the galleys should be checked with the publisher to see if they are the same in the book. I didn't do this, and I apologize.

Who's got the right stuff

Your piece on Chuck Yeager and the associated adventures in Pakistan ["The Right Stuff in the Wrong Place," Edward C. Ingraham, October] was funny, irreverent, perceptive and the sort of thing that the Foreign Service is supposed to breed out of any individual. I think its abilities in this regard are exaggerated, but Ingraham obviously is of a special rugged fiber. I don't know when I've enjoyed reading anything more; having an inordinate tendency to concentrate on my own material, I very rarely write letters like this. My thanks.

JOHN KENNETH GALBRAITH
Cambridge, Massachusetts

I have just read with surprise and incredulity Edward C. Ingraham's article in your October issue. I do not know General Yeager, but I do know Joseph Farland, former ambassador to Pakistan, whose reputation is similarly manhandled by the writer.

In the late 1950s I had the pleasure of serving under Ambassador Farland in the Dominican Republic as head of USIA operations there. He was an intelligent, effective and forceful chief of mission who did an outstanding job in a difficult spot. The staff liked and admired him, and he treated us as colleagues, with consistent consideration and helpfulness. By all reports his performance at our embassy in Panama was equally outstanding.

It is unbelievable that this able, intelligent public servant should have metamorphosed in a few years into the cartoon character that Mr. Ingraham has created with such evident relish—out of assumptions, innuendos and ridiculously improbable scenarios.

It is a pity that Mr. Ingraham's obvious command of language and his knack for turning an amusing phrase should have been put to such a sorry use. The article not only lacks the objective reporting one would expect from an experienced foreign service officer, but there is a kind of basic sneer that shows through almost every paragraph.

JUANA A. VOGT
Tucson, Arizona

Stupid planes, guns

Thanks for Scott Shuger's "The Navy's Plane Stupidity" (October). The examples in it reminded me of something that has stuck in my craw for many years.

The Browning Automatic Rifle (BAR) was first

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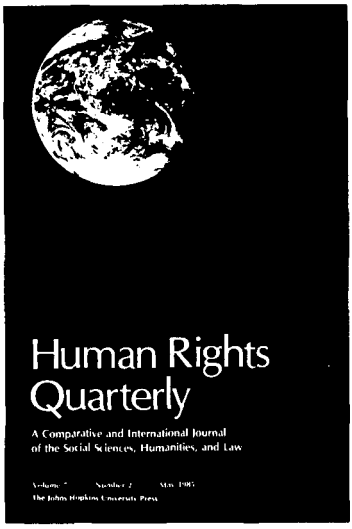

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manufactured in 1917 and was used by the services until some time after the Korean War. They were sort of a cross between a rifle and a machine gun, heavier than a rifle but with more firepower, lighter than a machine gun but with less firepower. There must have been two million or so of the things manufactured over a 30-year period.

It didn't work. The monopod was unstable and the gun fell over when it was fired. I suppose the army found this out in 1917, the first time anyone tried to use it in the field.

My point is that the continued manufacturing and purchasing of useless gewgaws isn't new. I'll bet army muskets were manufactured with flint holders for 50 years after the cap and ball system came in. While this letter is about the BAR, a million or so machine guns were manufactured with a fitting on the side which held a wooden ammo box in place, when the ammo box had been changed to stamped metal in about 1939.

I don't know what the answer is. I do know that combat soldiers generally (no pun) loathe procurement officers and perhaps that is the trouble. The good men tend to stay out of procurement.

C.R. EBERSOLE
Houston, Texas

Complaint department

Having waited for some time for *The Washington Monthly* to publish an article on the Gary Hart phenomenon and his place in the future of the Democratic party, I fairly tore the October issue open after seeing the title of your article, "Why Gary Hart Lost."

Expecting an unforgiving, but fair analysis of the Hart campaign, I cannot express the disappointment which overcame me when I discovered that "your" article was nothing more than bits and pieces of three previously published books on the 1984 campaign.

WILLIAM E. MCGRATH, JR.
Princeton, New Jersey

The editors reply:

The book excerpts, together with the article's italicized conclusion, which was written by us, do express our views on why Hart lost.

Although the table of contents in the October issue was only 53 percent correct (7 of 15 page numbers incorrect), it didn't prevent me from reading my three favorite items in the usual order. "Memo of the Month," "Tidbits and Outrages," and "Tilting at Windmills." As usual, I wasn't disappointed. Now I'll start on the articles. Did someone at *TWM* have a four-martini lunch?

ERWIN L. WINTER
Northridge, California

The editors reply:

No, not that day. But we wish we had some excuse.

The Washington Monthly

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Published monthly except combined July/August issue by The Washington Monthly Company, 1711 Connecticut Ave. N.W., Washington, D.C. 20009 (202) 462-0128.

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ISSN 0043-0633.

Subscription rates: U.S. and possessions: one year, $30; two years, $56; three years, $77. Additional charges per year, foreign subscriptions: Canada, $3; other, $25 air mail, $3 surface mail. Back issues, $3. Send all remittances and correspondence concerning subscriptions, undelivered copies, and changes of address to 1711 Connecticut Ave., N.W., Washington, D.C., 20009. For change of address, please provide four weeks' notice and return old address label. New subscriptions only: 1-800-341-1522. Postmaster: Send form 3579 to The Washington Monthly, 1711 Connecticut Ave. N.W., Washington, D.C. 20009.

The Washington Monthly is indexed in the Book Review Index, Political Science Abstracts, Public Affairs Information Service, the Readers' Guide to Periodical Literature, the Social Science Index, and Ulrich's International Periodicals Directory, and may be obtained on microfilm from University Microfilms International, Ann Arbor, Michigan, 48106.

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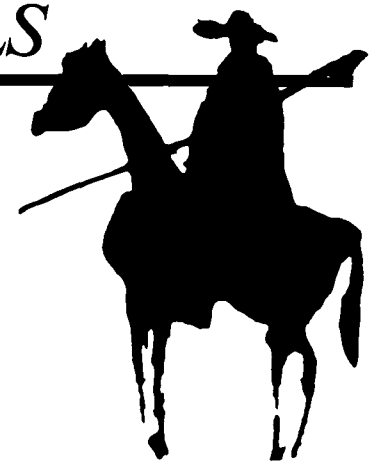
TILTING AT WINDMILLS



If you watched the recent major league playoff and World Series games, you may have noticed that the umpires missed more than a few calls. One reason for this modest performance may be that umpires for these post-season games are selected without regard to ability. All they need to have is six years seniority and then they are automatically given post-season assignments on a rotation basis. It used to be that only the best were selected to umpire these games. For them, as with the players, the World Series was a reward for skill and effort. Now the marginal umpire feels better. He gets to go to the Series just like the good umpires. All that suffers is the quality of work.

The quality of umpiring is, to be sure, not one of the graver problems faced by the Republic. But valuing seniority over performance has had a more significantly negative effect on the quality of work of union members in our great industries, teachers in our schools, and civil servants in our government. The Reagan administration, in one of its occasional flirtations with wisdom, has tried to do something about the last. Its Office of Personnel Management has proposed new rules governing layoffs that would give more protection to the able and less to the senior.

The Agency for International Development has been an example of the sad result of policies that favor seniority when reductions in force occur. Layoffs, or the threat thereof, inspired by periodic outbreaks of congressional hostility to foreign aid over the years left the agency with an embarrassingly high proportion of marginal veterans protected by seniority, as too many of the able young have either been fired or resigned in anticipation of dismissal.

Unfortunately, OPM's reform proposal, which would have tended to prevent such unhappy consequences, has been blocked repeatedly by Congress. The latest delay is until next May, by which time the civil service lobby will doubtless have mustered the votes for another postponement....

It is interesting to note that the Chinese, who invented the bureaucratic system more than 2,000 years ago, have now seen the light on seniority. "China is introducing a merit raise system," reports Donald Sutherland of *The Washington Post*, "replacing longevity of service with performance on the job as the primary criterion for salary levels."...

Did you see that haunting television interview with Yul Brynner as he was dying of lung cancer? Asked why he had started smoking when he was young, he replied: "I did it to be macho."

The terrible irony is that the most successful macho cigarette commercial in history, the Marlboro Country ad, used the theme music from one of Brynner's films, "The Magnificent Seven."...

More companies are going private, buying up their publicly owned stock. A record $10.8 billion was spent to make companies private in 1984, compared to just $636 million in 1979, according to *Time*, which adds, "This year's pace is even more furious."

The major motive is to avoid takeovers, but going private can also improve our capitalist system in profound ways. A privately held company is not subject to the same pressures to emphasize short-term gain and maximize profits that a publicly held company is. The private company can thus avoid many of the worst defects of American capitalism.

I once failed a law school exam because I thought "publicly owned" meant something like TVA instead of General Motors or

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General Electric. Actually it can mean either, but as we're using it here, it means the GMs and the GEs. And "privately held" can be like your grandfather's family-owned company, where he cared more about making good saddles and having happy employees than about making a lot of money.

Without the pressure to maximize profits, privately held companies can pay decent attention to matters like product quality, worker safety, and environmental protection, considerations that the publicly held corporation can argue it has a duty to its stockholders to minimize in the name of higher profit.

It is also easier for a privately held company to decide to make less profit now so that its prices can be more competitive, which will in turn increase its market share along with its ability to hire more workers. It can also ignore the higher profits that moving the plant to Juarez, Mexico would yield in favor of keeping the plant right here in Gary, Indiana, so Americans won't be thrown out of work....

The District of Columbia has 534 physicians for every 100,000 people. The average for the 50 states is 185.

The District has an infant mortality rate of 25.1 per thousand live births. The states average 11.9.

The District has a higher overall death rate than the national average. It's also well above the national average in deaths due to cancer. Its tuberculosis case rate is more than three times the national average.

These dreadful figures come from Drs. E. Fuller Torrey, Eve Bargmann, and Sidney Wolfe, who have a proposal to do something about them: that all physicians be required to spend two hours per week doing pro bono work as a condition of licensure in the District of Columbia until such time as the majority of the health indices have reached the national average.

I applaud the three doctors who came up with this sensible and humane idea, but I fear it is doomed. Several years ago a survey of Washington psychiatrists indicated that their interest in doing pro bono work was minimal to the point of absurdity. And there is, after all, a stunning array of demands on their leisure time, the evidence of which can be found in a publication called *Physicians' Travel and Meeting Guide*. Its summer 1985 issue contains 256 pages. The back cover has a Rolls Royce ad. There's also a column, "Mario Andretti on Autos," which contains statements like these: "When you get into cars such as the BMW or the Mercedes, which I know many doctors prefer....another car not to be overlooked in this area is the Jaguar."

But the main subject of the publication is vacations that are tax-deductible because they are presented under the guise of continuing medical education. Thus there is the "1985 Oncology Tour" sponsored by the New York Medical College and featuring stops in such centers of medical scholarship as Hong Kong, Singapore, and Bangkok. Another article is entitled "The Medical College of Virginia: Learning, Involvement, and Sightseeing in Italy." It says:

"The MCV medical study tours include some of the most scenic spots and best hotels in Italy. The 15-day journey begins with three days in Venice and moves to Bologna, Florence, Sorrento, and Rome. Padua, Pompeii, Naples, and the Isle of Capri provide beautiful and interesting excursions included in the travel package."

Why waste time that can be spent like this—with someone else, namely the taxpayers, footing the bill—on giving away your services to some black kid in a grimy ghetto?...

Speaking of deductions, I have a new hero. He is a businessman named James E. Buerger who writes:

"During the Carter administration, I was asked what my feelings were about the three-martini lunch. I answered then, as I would today, that I am opposed to such lunches as a tax-deductible item. This may come as a shock to many who know me as a businessman, but I have always considered tax deductions to be a form of welfare! Businessmen often complain about our unfair social welfare system, when, in truth, the business people are the greatest recipients of welfare in America."

Splendid sentiments, you say, but isn't "hero" a bit strong a label for their author? Not a bit. Mr. Buerger happens to be the publisher of *Travelhost*

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magazine, a publication that for both its distribution and advertising is totally dependent on the travel industry....

Respectable Washington is dedicated to the idea that only incremental change is possible. This may be because any other kind of change would threaten the position and influence of the establishment. But, whatever the reason, those of us who suggest that radical reform is both needed and possible are usually greeted with a raised eyebrow and a changed subject.

The establishment is wrong. Radical reform is possible. I recently saw a dramatic example when I went down to my old law school at the University of Virginia to make a speech. In the fifties, while I was attending the university, the state of Virginia was almost totally reactionary. The Byrd machine dominated the state's politics. A campaign of "massive resistance" against desegregation, inspired and influenced by James J. Kilpatrick's editorials in a Richmond newspaper, enjoyed the support of the great majority of Virginia's whites. I can remember seeing only one black, a graduate student, on campus.

Today the situation is completely—shall we say, radically—different. There could be no better illustration than the results of the November 5 election, in which a moderate Democrat was elected governor, a black, lieutenant governor, and a woman, attorney general. Most astounding in terms of change since the fifties was the endorsement of the black by the Fraternal Order of Police.

The people who brought about this change didn't start out saying we should be a little bit nicer to the colored folks. They said discrimination must end, period. The change may have been gradual in coming, but the goal was and had to be radical change....

The case of La Scala Mobile provides further evidence of the possibility of radical reform. "The moving staircase" is the Italian version of the automatic wage increase to compensate for increases in the cost of living. It is comparable to the COLAs here, which sophisticated Washington will assure you are politically untouchable. But last year the Italian prime minister, Bettino Craxi, cut 4 percent from the moving staircase. The Communists forced a referendum on the issue. And guess what? The people supported Craxi....

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Nathaniel Bunyon-Knight is vice president in charge of its Change Research Division. This is part of his "Professional Profile" as written and distributed by Gray:

"Nathaniel Bunyon-Knight has earned international respect as the leading authority on the dynamics of change. The unique CHANGE RESEARCH methodology he created reveals the rate, degree, and direction of development in any targeted field of industry six to eight months in advance of all other analysis methodologies. It is a new discipline in futures research and the only one that utilizes EconEcology—a term he coined for the symbiotic revitalization of the old science of economics by merging it with the newer science of ecology. EconEcology factors ecology-sensitive economic information into CHANGE RESEARCH interpretive analysis to account for the impact of the earth's corrective reactions to the civilizing actions of humanity that upset the delicate balance of nature.

"CHANGE RESEARCH provides bottom-line, holistic knowledge upon which sound projections and wise decisions for effective proaction can be based making it possible to prepare for and influence the future whenever possible."

The decision to toss a document into the trash should not, of course, be made lightly. But the presence within it of certain words can, in my case at least, be decisive, especially if two or more of the words appear together. These culprits definitely include dynamics, symbiotic and holistic, not to mention

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proaction and Econ-Ecology....

Speaking of change, for years now we've been reading those Future Trends books that assure us that the amount of time devoted to work is steadily shrinking. Now comes a survey by Louis Harris and Associates reporting that the median work week, which was 43.1 hours in 1975, is now 47.3 hours and rising.

This is tragic. At a time when we have 7 percent unemployment, companies should be hiring the jobless instead of working their present employees harder. It would also be cheaper for the companies, since they would be paying wages at regular rates instead of overtime....

I am indebted to Robert Samuelson for reminding me of my favorite quote about statistics. It's by the late British economist, Sir Josiah Stamp, who said: "The government is very keen on amassing statistics. They collect them, add them, raise them to the nth power, take the cube root, and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman who just puts down what he damn well pleases."...

Some of you may remember my concern about the Reagan administration's sellout to the alcoholic beverage industry on the issue of contents labeling. Beer, wine, and liquor have a lot of odd things in them that are not presently disclosed on labels—fish glue, for example, is used as a clarifying agent in wine. Some of these additives, such as sulfites, are dangerous to everyone. Others, like casein, to which 250,000 Americans are allergic, can produce dangerous reactions in those sensitive to them who don't realize what they are drinking. The Carter administration had proposed regulations requiring the disclosure of these ingredients. The regulations were withdrawn by the Reaganites. Now a federal judge has ruled against the administration and held that all ingredients must be disclosed on the labels. This is a comfort to all of us who imbibe now and then and would like to know what we are doing to ourselves....

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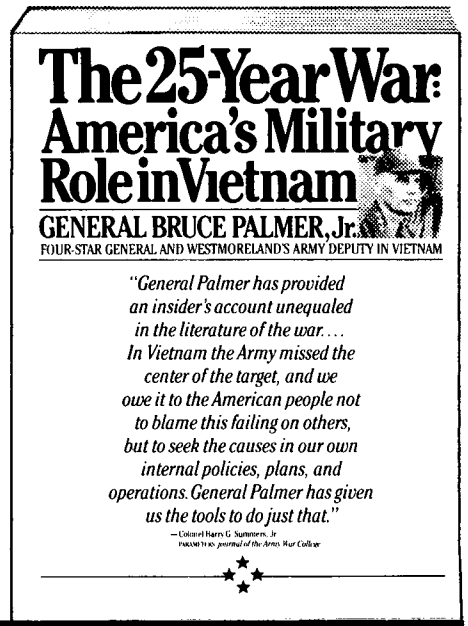

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You may recall our recent article on USIA's WorldNet by Mark Schapiro. Shortly after it appeared, Charles Z. Wick (see Letters) was asked by Sam Donaldson on David Brinkley's show if he had an estimate of his audience. Here's his reply and the ensuing dialogue:

MR. WICK: Yes we do. We've done 116 WorldNet [programs] and the estimate, based on various extrapolations we get from the field is that over two billion people have watched WorldNet. There have been....

MR. DONALDSON: Two billion people?

MR. WICK: Over two billion people.

MR. BRINKLEY: That's half the human race....

"The American Anvil Corporation was a company in trouble," writes my friend Ross Baker of Rutgers in the September issue of *American Demographics*. "It produced a single product—anvils—that did not lend itself to a high-tech economy. The company tried streamlining its anvils, downsizing them, painting them with racing stripes, and even stamping 'Made in Japan' on them."

Nothing worked until Anvil was taken over by a financier named Armand Mallet, who decided that a few judicious company contributions to the members of the Senate Armed Services Committee might succeed where all else had failed. He was right. The committee amended a military procurement bill to require that all major weapons systems be fitted with anvils.

"If the bill passes the House," Baker continues, "each F15 fighter will have an anvil installed behind the pilot's seat, and Trident submarines will be required to carry seven."

Baker is kidding, but the world of Washington is full of similar stories that are absolutely true....

In 1978, Sgt. Frederick Sherman of the New York City police department pled no contest to a charge of driving while drunk and ramming seven parked cars in the Bronx. On March 15 of this year, again while drunk, this time at the wheel of a patrol car, he struck and killed a 79-year-old man and injured another person on a Manhattan street. On October 12, he was arrested in Westchester County. The charge: drunk driving. At the time of the arrest, Sgt. Sherman still held a valid driver's license. It had never been taken away from him....

The Nicaraguan Contras are not among my favorite causes, but, in one respect at least they have my sympathy and that of everyone else who has ever thought a fundraising dinner might be the answer to his organization's financial problems. The Nicaraguans got President Reagan as their speaker and charged $250 to $500 a plate. They took in $219,525. Sounds pretty good so far, doesn't it? Then they started adding up the bills, which included $71,163 for food and $116,938 in consulting fees. The net proceeds were $3,000....

Like most people, I felt a surge of pride when we captured the *Achille Lauro* terrorists. On reflection I feel even greater pride that we were able to do it without violence. This was in the great tradition of the Cuban Missile Crisis, where we also succeeded in being tough without shedding blood. But reflection also reminds me that we aren't going to stop Palestinian terrorism simply by being tough. We have to find a just solution to the problem of the West Bank. It seems clear to me that this solution must include democratic self-government, which would, of course, give control to the Palestinian majority, accompanied by a provision for enough Israeli military outposts on the West Bank to guarantee the security of Israel.

One reason I fear we won't work hard for this kind of agreement is that the American people are not well informed about the Palestinian's case. I grew up identifying with Jews because of their persecution by the Nazis and have always been a supporter of Israel. A lot of other people in the media are, I believe, like me in this respect. And most of us find Arafat repellent. The result is that there is a pronounced pro-Israel tilt to coverage of the Palestinian problem.

A possible example of this tilt is provided by the cases of Leon Klinghoffer and Alex Odeh. One a Jewish-American, the other an Arab-American, they were both murdered by terrorists within a few days of one another. Klinghoffer's death was a front-page story for days. Of

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course the context of the shipboard hijacking made that event more dramatic, but do you even know about Odeh? He was a college instructor in California who devoted much of his life to working for peace in the Middle East. Shortly after he had spoken on television in favor of the PLO, he opened his office door and a trip-wire attached to it set off a bomb that tore through the lower part of his body, killing him a few hours later. Jay Mathews of *The Washington Post* wrote an excellent article about Odeh's death and about how upset Arab-Americans were at the lack of press coverage it received while pages were being devoted to Klinghoffer's murder. The *Post* ran Mathews's story on page 18....

We have noted from time to time that professional groups, like bar and medical associations, tend to be excessively lenient in cases of misconduct by their members. Recently, the California State Bar, confronted by the case of a member who had murdered his wife by shooting her ten times, recommended that his punishment consist of a two-and-one-half-year suspension followed by another two-and-a-half years of probation. He would also have to pass a legal ethics examination. The California Supreme Court couldn't quite swallow that and proceeded to overturn the bar's recommendation and disbar the lawyer....

Have you heard about Eugene Lang? He's the millionaire industrialist who promised the sixth-grade students of his old school, P.S. 121 in East Harlem, that if they would not drop out—as most of the children in their neighborhood were accustomed to doing—and would graduate from high school, he would pay their college tuition. All 51 of the students are still in school in the eleventh grade, and all but one plan to go to college.

Tell this story to your friends. It should be known by everyone in America, because what it shows is that hope and the assurance of a fair chance in life cannot only change behavior but change it radically—and for the better. What most ghetto young people see today is little or no chance of a fair shake, little or no chance that they will be able to go to college, so why should they try, why not give up, why not stop going to school, there's no point to it....

—*Charles Peters*

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Torture cell, Colombia. Photo: Amnesty International

RATIONALIZING TORTURE

The Dance of the Intellectual Apologists

by James David Barber

At this moment, thousands of citizens sit in their cells waiting for the next session of torture by their own governments. New techniques, such as painmaking drugs; pseudo-legal dodges, such as incommunicado detention and "disappearances"; ancient scenarios, such as children forced to watch the torture of their mothers—these practices have spread rapidly around the world. Amnesty International has tracked torture in nearly a hundred countries. Systematic, government-performed burning, shocking, smothering, cutting, crucifying, castrating—whatever horror you can imagine is probably being tried somewhere today. No government admits it. Most constitutions forbid it. But all you have to do is pay heed to the grisly accounts coming out of the trials of Argentina's former military rulers to see how deep and wide the morass of cruelty has become.

Many bear the responsibility of revealing and working against torture—intellectuals in and out of universities, the press, government officials in this and other countries. Scholars and intellectuals play a particularly important role in shaping our perception of the extent of government-sponsored torture and what can be done to combat it.

At least since the age of Erasmus of Rotterdam, intellectual communities have held high the banner of humane learning. Our callings differ, but we share a common sense that our thinking has a purpose, an end beyond itself, which is to advance a civilization in which the human spirit can flourish. This ideal in no way contradicts the ideal of objectivity. In the actual conduct of research, sentiment is out of place. Theories must be subjected, coldly and systematically, to the test of fact, not bent to fit the hopes of the researcher. But in deciding what topics to research and what to make of the findings, we confront the fundamental obligation to put whatever talents we have to work on behalf of justice, freedom and compassion in the world. Generations of intellectuals have toiled to understand—and thus to contribute to healing—the miseries of

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humankind.

Of course, there have always been people who, shying away from the Erasmian principle, pursue instead whatever little puzzles help them while away the hours of tenured tranquility, comforting themselves with the thoughts that they, unlike Dr. Mengele, would never take part in the personal torment of the helpless. But there is an even darker path for the intellectual. At least since Machiavelli, scholars who would never dream of hurting anyone themselves have put their brains to work justifying cruelty by others. Some are cynics. Some are passionate careerists. But a good many think of themselves as realists who, alas, must undertake the awful business of crafting reasons for supporting, or at least ignoring, government brutality and murder. Such reasoning is often very subtle. It can connect with genuine realism, with the duty all of us bear to bring virtue into real life, not to be satisfied with merely hypothetical or vicarious decency. But what at first looks like reasonable compromise can easily drift over into the justification of cruelty. Even the most sincere torture abolitionist can be trapped by apparently sensible alternatives to the steady, adamant insistence that torture stop. The following are, I think, the major examples in our day.

The progress trap

If the U.S. government makes foreign aid contingent on a nation's human rights performance, how is that performance to be judged? What mode of judgment will work—in the real world—to end abuses?

An obvious criterion would be to assess whether the nation's performance is *getting better*. If the nation's human rights record is improving, the aid will continue; if not, it will be cut down or cut off.

But the trap is also obvious. Putting aside the many ways governments can play with numbers, what constitutes progress? Recently Turkey, an ally of the United States and a government practicing torture on a massive and systematic scale, reduced from 45 days to 30 days the legal period of incommunicado detention in areas of emergency military government. That is when most torture takes place—during incommunicado detention, before family or friends or a lawyer can see the prisoner. Does that "progress" deserve approval and support from our government? The United States was asked to continue and increase aid to El Salvador because, in a given period, death squad murders declined from the thousands to the hundreds. Was that supportable "progress"? What if the Soviet Union were to release Andrei Sakharov tomorrow—should that good news constitute "progress," justifying a more generous economic policy by the U.S.?

'I cannot emphasize strongly enough the favorable contrast between the current human rights situation in Guatemala and the situation last December.'

—Assistant Secretary of State Stephen Bosworth, July, 1982, praising the new government of General Efrain Rios Montt. Amnesty International reported that during the last six months of 1982 more than 2,600 Guatemalan civilians had been killed in more than 100 massacres.

Another way of posing the progress question is, how long? How long should it take a government to eliminate torture from its own practices in its own jails? Six months? A year? Five, ten, 20 years? Think of the analogy (inexact, but relevant) to civil rights in the United States: how long should a state be permitted to practice racial segregation in public schools before the federal government cuts off its funds?

We should welcome every step toward decency by an allied government. We should welcome every step by the United States government toward support of human rights. But in the name of the child being tortured today and tomorrow, we must not accept "progress" in this sense as satisfactory. That would be like allowing a murderer to continue because he has been murdering fewer lately.

The prerequisites trap

It is written that Augustine, before he became a saint, lived with a mistress for 15 years, during which he prayed for the blessing of chastity, "but not yet." The idea that torture should be absolutely and universally abolished— "but not yet" —gains credence and a fancy vocabulary in certain circles of modern social science.

The logic that prerequisites must be accomplished before torture can be abolished goes

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'Although I am not an apologist for Haiti's past problems with regard to human rights, I think it necessary that Congress establish and be open to a realistic perspective. Haiti is by all accounts the poorest country in the Western Hemisphere. . . . A country in such dire economic straits as Haiti can ill afford to jeopardize the political stability it has established thus far. . . . I am convinced that as Haiti's economic situation improves, so, too, will its record on human rights.'

—Theodore Adams, Jr., president, Unified Industries, before the House Human Rights and International Organizations subcommittee, April 1985.

like this: Torture is but one relatively minor pathology in a society beset by much larger problems. Before we deal with torture, we must deal with the right to eat. As long as the economy is plagued by rocketing inflation, wild swings in the business cycle, disastrous dependency on fluctuations in world markets, and so forth, the government will fear for its life and thus resort to torture and other repressive measures. Therefore, if one is really interested in abolishing torture, one will begin by patiently and systematically working to stabilize the economy and thus establish civil peace. *Then* it will be possible to start the process of dismantling the torture system. Backers of Paraguay's dictator, Alfredo Stroessner, have been pushing this argument for more than 30 years of virtually continuous torture and repression.

The argument calls to mind the patient instruction American blacks used to receive from certain white intellectuals as to the conditions and developments that would have to pave the way for the march to civil rights. Martin Luther King, Jr. answered, in his book, *Why We Can't Wait*, that "the Negro wants absolute freedom and equality, not in Africa or in some imaginary state, but right here in this land today." King's ancestors had lived through generations of torment waiting for the supposed prerequisites for the abolition of slavery to arrange themselves. From ancient slave rebellions to the women's movement of today, those demanding their rights again and again have been handed a plateful of "sometime" when they have asked for a serving of "now." It is that way with torture.

The intellectual prepared to put off the abolition of torture until the world is "ready for it" needs to imagine himself making that speech to a gang of brutes about to deal with his teenage daughter. But beyond its stone-hearted immorality, the prerequisites argument vastly exaggerates the calculability of politics. The test of prophecy in the social sciences is contingent prediction: on the basis of a theory, one poses as clearly as possible what will happen in the future, given certain conditions, and then tests the predictions explicitly against the actual results. But only a handful of daring or foolhardy scholars do that. Instead we have whole libraries full of post hoc wisdom, sociological tomes translating weak correlations into laws of nature, argument that relationships that held in the last era will hold in the next—theories denied by every great advance of rights in human history. Analysts mesmerized by the lure of precision can lose sight of the most elementary political facts of life.

Can a regime whose subjects hate it recruit popular support for social reform?

Does economic stability—or even strong economic growth—protect a torturing dictatorship from revolution?

Does a nation's international reputation as a vicious repressor of the rights of millions enhance or detract from its ability to lure foreign investment?

These questions answer themselves—and there is no shortage of examples directly evidential to each. Empirically speaking, torture *has* been stopped—in Greece, in Argentina, in Brazil, and elsewhere—but the socio-political conditions for that advance have varied widely. One set of prerequisites is clear, however: the determination of fellow human beings to get the facts of torture out into world consciousness and to press torturing governments to stop it once and for all.

The cultural relativity trap

Twentieth century anthropology brought home a useful observation: people live differently, not just as deviants from a Western norm, but in a

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rich variety of cultural patterns. We no longer call the outlanders "primitive" or "barbaric." No longer indignant, we are rather fascinated by the Zuni and the gentle Tasaday, the Masai and the Bushmen, the wonderful ways of the Eskimo. The liberal lesson is, judge not that ye be not judged; various cultures have their own dignity, their own integrity, their own respect-worthy differences from the American Way of Life. Generally we should let them be as they want to be, should protect them from our own disruptive exploitations and interventions.

How does that relate to torture? Well, the argument goes, in some cultures they think it more just to flog a man in public than to lock him up for five or ten years. Some cultures, take a very dim view of homosexuality or religious deviation and believe that torture is appropriate in such cases. In other cultures, what we call torture is to them nothing more than "behavior modification" or the treatment of mental illness by aversive conditioning. In short, cultures differ widely in the value they place on human life and the compassion they accord victims of torture. We have our values, they have theirs. They let us be, we let them be.

To destroy this line of sophistry requires but a moment's reflection on the meaning of what Tom Paine called "The Rights of Man." From time immemorial, cultures have supported cruelty—which never made it right. The "democratic" Greeks and the "gentle" Eskimos practiced child exposure. Aztec culture ripped out the hearts of maidens. Roman imperial culture developed the custom of crucifixion.

Rights in the human rights tradition reside in individuals, not cultures or groups. We assert the fundamental dignity of the person, not the clan. The doctrine of the American revolution declared *men* (today read: persons), not cultures or ethnic enclaves, equal and possessed of rights and applied those attributes to *all* human beings, not those in the neighborhood. A tradition of tyranny is no excuse for its existence one more day. That the *falaga* (beating of the soles of the feet) is fashionable in Iraq or the *cachots noirs* (totally dark cells for long-term detention) is a facet of Rwandan culture gives us not the slightest pause in demanding reform. We can respect cultural differences and still require nations which wish to have dealings with us to uphold certain standards of government conduct. If there is any principle this country stands for—at home or abroad—it ought to be respect for the individual per se. If any would insist that torture is somehow acceptable because it is culturally existent, let them make it voluntary on the part of the victims.

The blame trap

Intellectuals are notably prone to believe that when they have said something they have done something. Analysis can paralyze action, but it can also, curiously, substitute for action. Vigorously advanced distinctions, covered by the press as if they were events, slip into an equivalence with reports of changes in the flow of actual goods and services and bullets and bodies in the real world.

Consider the allocation of blame for torture. Is torture worse in the Soviet Union or in South Africa? How does Cambodia rate on a moral scale of torture in comparison to Iran? Is Turkish torture more or less hideous than Guatemalan torture? Is blundering torture to be more readily forgiven than efficient torture? Then: Within a national system, can the "government" be blamed for what the army does—especially in off-duty hours? Is torture *by* communists worse than torture *of* communists? Is "authoritarian" torture or "totalitarian" torture worse? Is torture for intelligence purposes more permissible than torture to intimidate opponents or to satisfy the sadist? Is torture of peaceful religious dissenters more awful than torture of violent revolutionaries? And so on.

The trouble with these delicate moral distinctions is that they contribute nothing to effective

'It is not simply that different societies at different stages of development require widely different institutions for their survival and prosperity. Even when we are faced with a society which is grossly unjust in the sense that it maintains oppressive laws for which there is no conceivable excuse, we must pause before inferring that the members of that society have a right to the abolition of those laws.'

—T.E. Utley, *Policy Review* 1978

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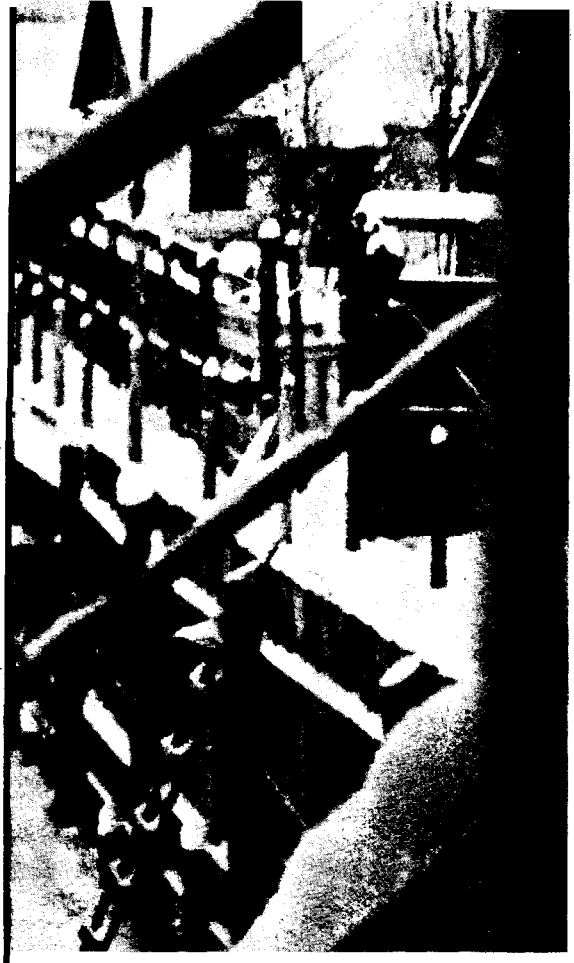

Perm Camp 36, Kuchino, Soviet Union. Photo: Amnesty International

'The first requisite of a foreign policy is a nation's capacity for distinguishing between potential allies and potential aggressors. If this requisite is not fulfilled, no other considerations can compensate. I find the idea of strategic relations with Chile and South Africa not nearly as offensive to my moral values as I did relations with the Soviet Union in World War II, which were, however, necessary, indeed unavoidable.'

—Robert Nisbet, ***Commentary*** **November 1981.**

action to stop torture. The truth about torture must be told: the world must know what is going on inside those fake Soviet "mental hospitals" as well as inside African dungeons. But knowing is not the same as doing. The government of the United States, in full knowledge that conditions may be worse elsewhere, should concentrate its efforts where they will do the most good, not merely focus attention on where the violations are the most evil. Our government's influence in Honduras and Turkey is, for example, considerably greater than our influence in Bulgaria or Iran. In the real world, each nation's primary obligation is to use its power where it can make a difference—a calculation involving a lot more than deciding where the blame lies thickest among the torturers of the world. In this field, merely moral comparisons are truly odious, for they distract from effective work to stop torture and result only in meaningless equations of blame.

The national security trap

Perhaps the most common form of supposed "realism" in foreign policy is the argument that national security comes first. This school would convince us that the basic opposition is between moral idealists and practical leaders. The moralists, they say, distort and distract policy from its fundamental responsibility: to protect and advance the national interest. The essential national interest is military security—not being conquered. Moralists who would risk that result are not being moral at all; they toy with the destruction of civilization. The purpose of foreign policy, this argument continues, must be to build those alliances and mutual commitments that will best buttress the odds of survival in a dangerous world. A favorite example is the Philippines: surely our need to secure U.S. military bases there has to supercede our concern over what Ferdinand Marcos does to dissidents.

When it comes to torture by governments, the "realist" argument proceeds, we are in principle against it but in practice must permit our allies to operate on the same priority we do—namely, that their own military security comes first. Therefore when a government threatened by terrorism, revolution, or invasion jails dissidents, tortures to produce intelligence or intimidation, executes traitors or dangerous suspects, we must exercise understanding, must appreciate that their desperate situation contrasts with our secure one. Above all, if torture works to produce stability, our national interest may require us not only to

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tolerate it but even to lend it our quiet support.

It is that little "if" around which this "realist" argument collapses. Even those prepared to set aside their morals cannot escape the facts. Far from producing stability, governmental brutality has again and again undercut the military security of states. Any attentive student of history can discern that cruelty arouses revulsion and, in the end, organized resistance. Regimes that fought dissent with terror—from perverted Rome down to the slaveholding American South, the British in India, the Japanese in Manchuria, and in our day torturers like the Shah of Iran, Idi Amin, and Somoza—have provoked the popular hatred that eventually helped to destroy them. Is there anyone prepared to argue that Batista's brutality built national security for his regime in Cuba? Is Castro *more* secure because his imprisonment and torture of dissidents and suspected or potential dissidents has engendered in thousands of Cubans a passionate determination to bring him down? Can any realist reasonably argue from the facts that the Marcos regime in the Philippines or the Botha regime in South Africa is *gaining* security by torturing more and more people into insanity in their prisons? If any case clinches the contemporary argument, it has to be Argentina, where mass torture and murder, far from securing the military junta in charge, precipitated its overthrow, arrest and trial.

The truth is that torture subtracts support from the torturing government and adds support to the resistance in other countries just as it would in our own. The mangled body of a teenager dumped in the village square scares everybody, but when the fear passes, hate takes its place. Those who must, flee elsewhere for protection. Those who can, find a gun and a group to fight with. When the response of the regime, counseled perhaps by modern "realists," is to step up its rate of cruelty to the helpless, the familiar process of polarization speeds up. The United States once again discovers itself facing a choice between a butchering government and a resistance movement ready to take help wherever it can get it. The result—from Vietnam to El Salvador to Turkey—has been about as unstable a situation as we could have created had we set out to do so.

Thus even those prepared to cut and burn prisoners for a higher political purpose and even those unaffected by the reputation of the United States as the staunch ally of disgusting dictators ought to pause before the facts. If they are realists, it is in the medieval sense of those who believe in the pictures in their heads rather than in the realities of political life.

'Authoritarian governments have significant moral and political faults, all the worst of which spring from the possession of arbitrary power. But compared to totalitarian governments, their arbitrary power is limited. . . . [We need] a steady preference for the lesser over the greater evil.'

—Jeane Kirkpatrick, *Commentary*, November 1981.

The democracy trap

Critics of the human rights movement often say we are looking in the wrong place. The problem is not torture but economic exploitation, or famine, or inhuman ideologies, or the lassitude of the church, etc. The sophisticated version is procedural: we should not treat the symptom (torture) but the cause (dictatorship). The cure for torture is democracy. Specifically, according to this argument, if you get free elections in a country, the public will not stand for torture. If a representative national legislature is established, torture will be outlawed. If you get an independent judiciary, justice will prevent torture. If you bring the army and police under the control of civilian government, death squads will be effectively controlled. The key problem is to establish the rule of law and basic democratic institutions. Then the torture problem will take care of itself.

The great majority of human rights advocates are advocates of political democracy. But to suppose that the latter guarantees the former is to fly in the face of human history and common sense. It was no accident, in our own national history, that the ratification of the Constitution—a political system—could not be accomplished until there was attached to it a Bill of Rights—explicit guarantees of human rights. Issued by unanimous vote of Congress, endorsed by the recommendation of George Washington himself, advocated by the best brains of the American republic, the original Constitution supposedly needed no Bill of Rights because the procedures it set forth did not grant the government the power to deny basic freedoms. But as the text made its way to the states, skeptical patriots like George Mason and Patrick Henry rose up in ada-

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'We believe that when citizens have economic liberties, inevitable pressures lead toward greater political and civil liberties. This is precisely why totalitarian regimes are stubbornly opposed to economic liberties. Their economies stagnate under strangling and suffocating bureaucracies, but they do not dare to bestow economic liberties—for in their train all other liberties follow.'

—Michael Novak, as U.S. representative to the United Nations Commission on Human Rights, 1981.

'If we take sovereign equality seriously, we will recognize that the people of every state should determine their own system of justice and how they want to defend themselves against domestic or foreign dangers. . . . Freedom and justice are the fruit of long organic growth nurtured by religious values, personal courage, social restraint and respect for law. The majesty of law is little understood in traditional societies where ethnic identity tends to supersede all other claims on loyalty and obedience.'

—Ernest W. Lefever, *Policy Review* 1978

mant resistance. Who could tell what the procedures would produce? Insist on the *substance* of rights—on free speech and religious liberty and the rest—and get it in writing, they said. In the years ahead, the resisters turned out to be right. No later than the regime of the second president, the federal government made it a crime to defame the president. Two centuries of United States experience make us grateful that the Anti-Federalists had sense enough to demand a tough Bill of Rights.

Today civilians control the Soviet police and armed forces, who engage in systematic torture from the Arctic Circle to Afghanistan. Today the judiciary system of South Africa grinds out its procedural decisions—condemning long trains of victims to the foulest of tortures. Today the national legislature of the Philippines has been unable to restrain the Marcos regime from daily torture in the jails and camps. Those who think a free election in Iran or Cuba today would topple those tyrannies are dreaming. In short, genuine democracy is far more than a set of mechanical processes of decision-making. Democracy is a structure—but also, and essentially, a culture in which structures are there to implement human rights, not to substitute for or replace them. It is important that this nation, founded on human rights, stand forth to insist that whatever the political machinery, its *result* must be "life, liberty, and the pursuit of happiness."

It is not the thrust of this argument that those who fight to end torture in the world should refuse to talk politics with those who have other priorities. Far from it. Our obligation is to be effective—to accomplish an end to the horror and blasphemy of torture. Effectiveness means persuading governments to change their ways, which in turn means entering into dialogue with the powers that be and those who can influence them. The first major contribution to the dialogue is information—revealing the facts of the torture epidemic—but we also seek cooperation in transforming information into policy. We will not make deals, in the political sense, with the fate of torture victims. But we will vigorously seek out allies to work with for the good of the cause.

In this field, what people think, or say they think, has consequences. Humane intellectuals can make a special contribution by pushing the key questions into the public debate and applying their findings to real change in the real world. The alternative is surrender to the sophists, who know perfectly well how to make cruelty look merciful. ■

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WHOSE AGENCY IS IT, ANYWAY?

How OMB Runs EPA

by Jim Sibbison

Before he was elected president, Ronald Reagan complained that the Environmental Protection Agency lacked an understanding of industry's problems. In his five years in the Oval Office, he has changed all that. Today industry executives help rewrite some EPA regulations before they go into effect, giving corporations more influence over the nation's environmental policies than ever before.

The procedure works this way: EPA writes the first draft of a new regulation after receiving volumes of facts and opinions from industry, environmental organizations, and other concerned parties. This process is legal and similar to those in other government agencies. But Reagan has added an extra loop to the circuit. An executive order issued right after his inauguration in 1981 directs the White House Office of Management and Budget to clear every new EPA regulation before it is promulgated.

In time, most regulations win perfunctory approval. Occasionally, however, the projected cost to the affected industry is huge. In such situations, OMB officials have quietly teamed up with corporate representatives, who tell them how they want the regulation changed to reduce the cost. OMB has demanded that EPA make the necessary changes, and OMB tends to get what it wants. No records of these OMB-business contacts are kept. It's all done in secret, outside of the law.

As a former EPA press officer, I can say confidently that even Richard Nixon never established an arrangement for corporate influence as ingenious as this one. To the contrary, when I was at EPA during the Nixon, Ford and Carter years, the White House would sometimes exert pressure on the agency's leaders to do industry a favor—no president ever lobbies for environmental causes—but its role was advisory and informal.

That's no longer the case. Looking back now, it's possible to say that the first known instance of the silent shift of power to OMB and the White House took place in the days of Anne Burford's tenure at EPA. Her chief of staff, John Daniel, noticed something strange about the way a water pollution regulation affecting the iron and steel industry was written after it came back from OMB. The language, Daniel noticed, was so technical that no OMB lawyer could have written it. He knew it had to have been done by industry personnel. The final version also happened to save industry a bundle of money. Daniel explained OMB's role in the matter at a House of Representatives hearing. When Albert Gore Jr. asked Daniel whether he thought OMB in general "acted as a back door channel to let the corporations affected hotwire the regulatory process to get the result they wanted," Daniel replied, "I

Jim Sibbison is an Amherst, Massachusetts writer. Research for this article was partially financed by a grant from the Fund for Investigative Journalism.

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After diluting federal water pollution regulations, steel producers came back for more in 1983. They wanted a more lenient standard on emissions of soot, smoke and dust, even though an EPA study warned that the change would threaten public health. OMB automatically sided with the industry, as did Vice President George Bush.

think you have correctly characterized it. Yes."

By the time William Ruckelshaus replaced Burford in 1983—he had been the first administrator of the EPA in the early 1970s—the steel producers were back for more. This time they wanted a standard set that permitted increased emissions of soot, smoke and dust, even though an EPA study showed a tighter standard was needed to protect public health. OMB automatically sided with the industry. So did Vice President George Bush, who had received a letter favoring a weaker standard from Walter Williams, president of Bethlehem Steel. In reply to the letter, Bush wrote, "I appreciate your thoughts on this issue and have shared your letter with Bill Ruckelshaus." According to congressional documents, a weakened smoke standard is now under consideration at EPA.

As the world burns

Of all the examples of OMB interference at EPA, none is more egregious than the revision of the agency's plan for the asbestos industry. Lee Thomas, EPA's current administrator, completed a bold plan begun by Ruckelshaus to dismantle the asbestos industry over the next ten years, reducing the hazard from that well-known carcinogen. The asbestos companies complained to OMB, which, in turn, directed EPA to lay off. Not long after, top EPA officials told the press they were yielding authority to regulate asbestos to the Occupational Safety and Health Administration (OSHA) and the Consumer Product Safety Commission (CPSC). The officials used the specious excuse that the law left them no choice. Rep. John Dingell was not so easily deceived. After he opened an investigation, EPA rescinded its decision to yield its regulatory authority over asbestos. The agency now promises that it will phase out the asbestos industry as planned. EPA has been delaying for months, however, its decision to publish the regulation. This foot-dragging inspires little faith in the agency's resolve.

Increasingly, EPA officials seem like actors in a soap opera. We see them and we hear them speak, but for all we know they're getting their lines and cues from the crew offstage at OMB. On a rare occasion, EPA may win a dispute with OMB. The decision to prohibit most of the lead in gasoline is such an instance. But as long as the OMB-EPA relationship remains out of sight, there is no way of ascertaining much of what is going on in the development of environmental policy.

The evidence I cite comes from the files of Dingell's Oversight and Investigations Subcommittee of the House Committee on Energy and Commerce. Its inquiry into the EPA-OMB power shift goes back three years, and the work is truly impressive. To get a more complete idea of how EPA has been subverted, it's worth reconstructing from the documents and testimony how EPA lost so much of its regulatory power in the asbestos case.

The dangers of asbestos are well known: U.S. workers die by the thousands every year from a variety of asbestos-induced cancers and other diseases. We are all familiar with the panic aroused by the discovery of asbestos in schools and other public buildings. The illnesses usually do not manifest themselves until 30 or 40 years after the victims first inhale asbestos dust. While the production of goods containing asbestos has declined considerably in America, many workers are still at risk. The largest use of asbestos products is in the construction industry, where workers handle asbestos-cement pipe, sheet roofing products and flooring. Garage mechanics who repair automobile brakes are also exposed to dangerous

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quantities of asbestos dust from brake linings.

At EPA, regulations prohibiting asbestos production and the use of some common asbestos products have been in preparation since the days of Jimmy Carter. During his 1983-1984 stewardship of the agency, Ruckelshaus decided to implement them for the first time. As he put it in an April 1984 letter to John Dingell, measures aimed simply at controlling asbestos emissions from industry would still result in "unreasonable" health risks. The industry, he said, had to be eliminated.

It was a flash of the Ruckelshaus of old. His uncompromising stance emboldened his senior staff, as well. Edward Klein, EPA's chemical control director, told an assemblage of asbestos industry executives: "You can fill your war chests and donate money to fight the government, or you can use that money to find asbestos substitutes." That kind of talk distressed B.J. Pigg, executive director of the industry's Asbestos Information Association. Pigg sent a letter of protest to Ruckelshaus calling the plan "unwise and inappropriate" and implored Ruckelshaus to reconsider. Neither Ruckelshaus nor his successor, Thomas, would budge.

So Pigg turned to a higher authority. On May 22, 1984 he contacted John Morrall, an OMB economist, and began a seven-month correspondence with him. As the Dingell investigation records show, Morrall and OMB's Brian Mannix, another economist, also heard protests from Paul Lafleur, a commerce officer at the Canadian embassy. More than 90 percent of the asbestos used in the U.S. is mined in Canada.

By this time, members of the president's staff had bestirred themselves. The White House routinely gets copies of regulatory proposals likely to be controversial; in this case it also received a request from Ruckelshaus for a meeting to discuss the worsening relations with OMB. Ruckelshaus and several senior EPA staff members met with Craig Fuller, Fred Fielding, and Randy Davis of the White House and Douglas Ginsburg, then OMB administrator for information and regulatory affairs. Whatever was said there, EPA came out the loser. Soon after Lee Thomas took over, his deputy, A. James Barnes, paid a visit to OMB. There he was handed a briefing book on the asbestos rules, which had been prepared for OMB Director David Stockman. The substance of the message was: OSHA and CPSC, not EPA, will regulate asbestos. There would be no phasing out of the industry.

OMB's decision was a disaster for morale at EPA. Almost five years of effort by staff members, for whom this would have been the greatest contribution to public health of their careers, went down the drain. Even more disquieting than that personal defeat was the potential impact on EPA's role as the supposed defender of the public from disease. If allowed to serve as a precedent, the asbestos decision will effectively take EPA out of the cancer protection business. As John Moore, EPA's assistant administrator for pesticides and toxic substances, once told congressional investigators, if EPA can't regulate asbestos, it can't regulate anything.

That may well be what OMB and White House officials have in mind. Certainly, no law enacted by Congress assigns them a role to participate in life and death decisions affecting public health. Their authority is drawn only from Reagan's executive order, which directs OMB to review regulatory actions to insure "aggregate net benefits to society. . . . to the extent permitted by law." Nor are OMB officials qualified by training to evaluate environmental cancer risks. They are lawyers and economists, not scientists. But what OMB lacks in expertise and legal authority, it makes up for in support from the White

Alarmed by EPA's efforts to shut down the asbestos industry, B.J. Pigg of the Asbestos Information Association appealed to higher authorities—the White House and OMB. The result: EPA lost its authority to regulate asbestos.

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House. At the moment, that's all that seems to matter.

The price of life

For all its power, however, OMB needed a rationale to forbid EPA asbestos regulation. The answer was "cost-benefit" analysis. The cost was the economic impact of the asbestos industry phase-out and product bans. The benefit was the avoidance of pain and death the regulation would provide to people who would otherwise have contracted asbestos-induced cancer and other diseases. The catch in the OMB formula was that, in using it, EPA was obliged to calculate the benefits by assigning a value to a human life. Though a common procedure for life insurance companies and personal injury lawyers, this analysis had never been used by government before Reagan's arrival in the White House.

In the asbestos case, $1 million was the arbitrary value assigned to the life of a child or adult. But that's not the figure the Reaganites compared to the cost of removing asbestos from the individual's environment to prevent cancer. Instead, OMB reasoned that a victim will not develop a malignancy for approximately 40 years, during which time he will probably enjoy a healthy life. Therefore, OMB required EPA to discount the life at an annual rate of 10 percent for those 40 years, leaving a human life worth a grand total of $22,094.93. OMB figured that at this rate, the cost of dismantling the asbestos industry would be greater than that of the lives affected by asbestos. Result: the EPA plan had to be dropped.

It's hard not to feel sorry for the EPA personnel who saw their work discarded in favor of such "analysis." Unlike those who oversee them at the White House and OMB, the men and women at EPA like to believe they work for the public's health. The OMB formula forced them to compromise their principles to keep their jobs, and they didn't like it. Don Clay, a senior EPA official, came right out and told the Dingell committee he opposed the OMB formula on ethical grounds. Furthermore, he said, it would impede any effort to regulate other substances that cause diseases with latency periods, such as cancer. A. James Barnes also had misgivings. He told a Senate hearing that he had a "great deal of ethical difficulty" with the formula. "The lives of my three children are worth every bit as much to me ten years from now as they are now," he said. He also said he had discussed the formula with Lee Thomas, and it did "not find favor with him" either.

EPA's leaders don't believe in what they're doing. And the asbestos case is just one symptom of the decline of an agency that can no longer be taken seriously as a protector of public health. Even if EPA does start phasing out the asbestos industry, the manufacturers have scored an extremely important victory: they can use OMB to reverse an EPA regulatory decision. Surely industries producing less well-known contaminants can also expect to find friends at OMB. Given the secrecy of these negotiations, the public will never know the difference.

According to the Dingell subcommmittee, other industries are already seeking favors. OMB officials, for example, have raised objections to EPA regulations controlling arsenic emissions. OMB contends that EPA failed to discount the price of life during the 15-year period it takes for arsenic-related cancer to develop. OMB has also pressured EPA to use cost-benefit considerations in setting health standards for air pollutants, and it held up EPA standards for underground tanks containing hazardous wastes.

There is only one way to reverse this ominous trend: another, even more exhaustive congressional investigation and passage of legislation to prevent OMB meddling. Congress has a large stake in this. OMB is flouting environmental laws that explicitly prohibit the use of cost as a consideration in protecting public health. Unless Congress acts, the agency once at the forefront of the environmental movement will continue to act as a rubber stamp for OMB-industry manipulations. ■

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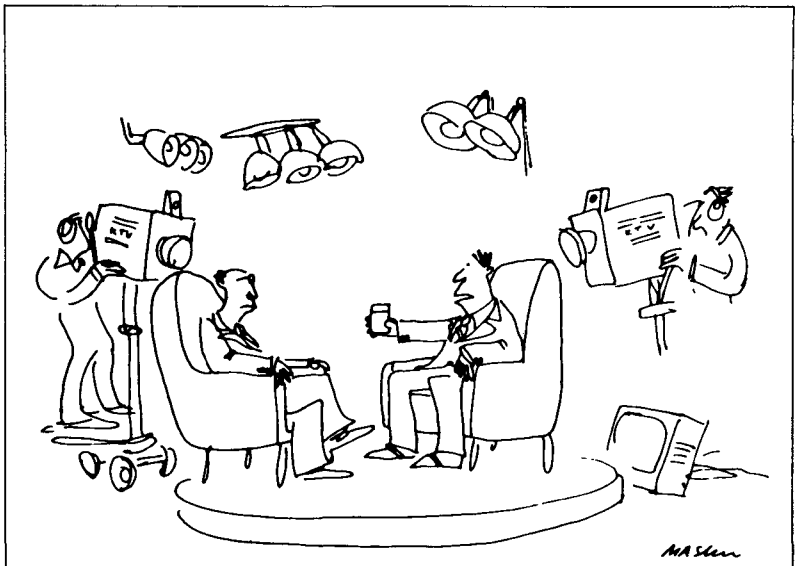

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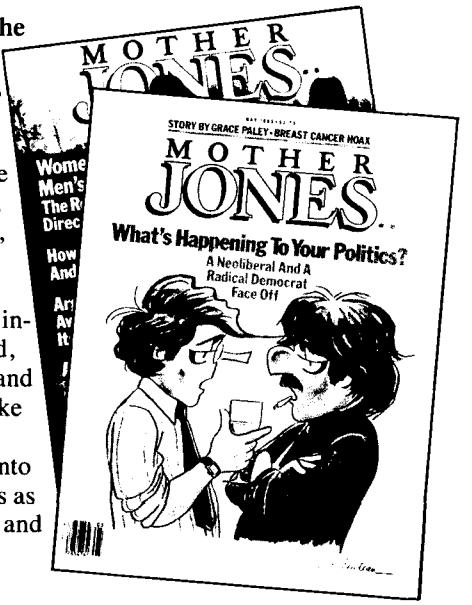

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WHO'S WHO in the Administration

As we noted last month, **Donald Regan**'s spot as the president's preeminent counselor is now assured. But, of course, it wasn't always thus. Evidently, when Regan was under fire for his bare knuckles style, the Reagans considered getting rid of the chief of staff, but cooler heads prevailed. Long-time Reagan intimate **Stuart Spencer** pointed up the fact that there were no obvious replacements for Regan. The California political consultant also told the Reagans that what they needed to do was not get rid of Regan but close ranks behind him. The president accordingly issued orders instructing the troops to give their support to Regan. Even **Michael Deaver**, who once saw it as his duty to destroy Regan, is observing the new harmony, as is Regan antagonist **Robert McFarlane**. But the national security advisor will soon lock horns again with Regan. Orders like that can't be graven in stone. . . .

Issuing commands for harmony isn't the only way the Reagans have found to mold public opinion. We were slightly surprised to learn that **Nancy Reagan** uses her press secretary, **Elaine Crispen**, like a Hollywood press agent. Mrs. Reagan has Crispen plant items in *W* and her other favorite publications. . . .

But if the center is still holding in the topmost levels of the executive branch, some of the lower level appointees are looking pretty ragged these days. Of three nominees for positions on the National Transportation Safety Board, only one, **John K. Lauber**, is generally respected. No one seems to have put much thought into the qualifications of the other two. **Kenneth Hill**, formerly the White House man on the security detail at the Olympics, has no background in transportation whatsoever and raised a few senatorial eyebrows when he said in his confirmation hearing that the White House nominated him because he had done "a very satisfactory job in a somewhat visible position and they wanted me to continue on in a visible position within the federal government." **Vernon Grose**, who has been sitting on the board for ten months as a recess appointee and is also now up for confirmation, goes by "Dr. Grose," even though his doctorate is an honorary degree. But then Grose comes well recommended: Watergate alum **Charles Colson**, in his book *Born Again*, tells that Grose urged him to be "forthright and utterly honest" about Watergate. Colson also calls Grose a good friend and a "strong Republican," which is somewhat intriguing since the White House nominated Grose to one of the slots on the NTSB for political independents. . . .

Ronald A. Pearlman, the administration's chief tax specialist, is departing by the end of the year to resume his tax law practice in St. Louis. Pearlman is surely one of the few Reagan appointees to return from whence he came instead of staying in Washington to cash in on his connections. It's all the more remarkable when you think what Washington's blue chip law firms would pay the man with the inside dope on the pending tax reform initiative. . . .

In

WHITE HOUSE

Assistant to the President for Political and Inter-Governmental Affairs—**Mitchell Daniels Jr.** has been deputy assistant to the president and director of the office of intergovernmental affairs.

Special Assistant to the President for Political and Governmental Affairs—**Ceci Cole McInturff** has been on the staff of the office of intergovernmental affairs.

COMMERCE

Assistant Secretary for Trade Administration—**Paul Freedenburg** has been staff director for the Senate Banking, Housing and Urban Affairs subcommittee on international finance and monetary policy.

HEALTH AND HUMAN SERVICES

Secretary—**Otis R. Bowen** has been professor of family medicine at the University of Indiana School of Medicine. Bowen was governor of Indiana in 1973-1981.

Assistant Secretary for Health and Environment—**Mary L. Walker** has been a private consultant on environmental and safety matters.

INTERIOR

Assistant Secretary for Indian Affairs—**Ross O. Swimmer** has been principal chief of the Cherokee Nation of Oklahoma.

LABOR

Undersecretary—**Dennis Eugene Whitfield** has been chief of staff for the U.S. trade representative.

STATE

Assistant Secretary for Human Rights—**Richard Schifter** has been a partner in the Washington law firm of Fried, Frank, Harris, Shriver and Jacobson.

Ambassador to India—**John Gunther Dean** has been ambassador to Thailand.

AGENCIES AND COMMISSIONS

Director, Federal Emergency Management Agency—**Julius W. Becton, Jr.** has been director of the office of foreign disaster assistance of the International Development Cooperation Agency.

Out

WHITE HOUSE

Assistant to the President for Political and Intergovernmental Affairs—**Edward J. Rollins Jr.** will become a partner in the consulting firm of Russo, Watts and Rollins, Inc.

EDUCATION

Assistant Secretary for Civil Rights—**Harry M. Singleton** is resigning to do consulting work in Washington.

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PASSING THE PORK

THE PENTAGON'S BLUEPRINT FOR LOBBYING CONGRESS

by Dina Rasor

In January 1983 the Pentagon submitted a budget of $239 billion to the Congress, an increase of 14 percent over the previous year. Because programs outside defense were being cut under "Reaganomics" and stories about Pentagon waste had begun to shock Congress and the public, there were many predictions that it was the Department of Defense's turn to endure some serious trimming.

The year before, Caspar Weinberger, the secretary of defense, told the Senate Budget Committee that there "was not one ounce of fat" in the defense budget. Congress appeared to be fed up with that unrealistic appraisal and ready to make some reforms and reduce the *increase* in the defense budget. However, then-Senator John Tower, chairman of the Senate Armed Services Committee, who opposed any reduction in the budget increase, knew how to silence the cries for any serious scaleback of the continual increase in the money flowing to the Pentagon.

Tower sent a letter in February 1983 to all of his colleagues in the Senate telling them he was under a lot of pressure to cut the increase in the defense budget and asking them to give him suggestions of things that should be cut *from their own state*. The senator understood the patronage "pork-barrel" system of the Pentagon budget well and knew that he would get few responses. He did receive a couple of responses from the hundred senators. Senators Charles Grassley and David Pryor rose to the challenge, but none of the well-known liberal critics of the defense budget did.

Senator Tower's exercise demonstrated the major problems in trying to keep the defense budget under control and in canceling weapons that don't work. Over the past 20 years, as the entitlement programs have taken more and more of the federal budget, the defense budget has become the best means of patronage spending. Members of Congress have become very protective of the large defense contractors in their states or districts, mainly because of the jobs these companies provide. They will work very hard to make sure that their companies and the products made in their state and district are well represented in the Pentagon budget.

I have often heard from officials inside the Defense Department that part of the problem of procurement is that the Congress forces companies and weapons on the Pentagon that it does not want. Yet I have also found that these same procurement people are more than willing to use

Dina Rasor founded and directs the Project on Military Procurement. This article is adapted from her forthcoming book The Pentagon Underground. *Copyright © 1985 by Dina Rasor. Reprinted with permission from Times Books.*

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this pork-barrel system to ensure funding of their own weapon program, no matter how badly it is performing. In this three-ring circus of defense contractors, the Pentagon, and Congress, each uses the others to help spread the money around, but each is quick to blame another when a scandal is uncovered.

I was fortunate to receive from a source probably one of the best-documented cases of how the pork-barrel circus works to the benefit of the parties involved but to the detriment of the taxpayer and national security. It was a computerized lobbying plan used by the Defense Department, Air Force, and Lockheed to force through another run of the notorious C-5 cargo plane. You may remember that in the late 1960s Ernie Fitzgerald testified that the C-5 program had run $2 billion over its budget; a year later he was fired for that testimony. I fell into the defense investigating business in 1980 when I investigated the C-5A wing fix for the National Taxpayers Union. Thus, it was hard to believe that Lockheed would be taken seriously in the fall of 1981 when it entered the competition for a new cargo plane to be called the C-X.

Son of C-5

Lockheed was offering an up-to-date version of the C-5, but the Air Force was looking for a smaller, more maneuverable cargo plane that could land on unimproved runways, would not take up as much space on the ground, and would still be able to carry outsized cargo such as tanks and heavy artillery. It appeared to me and to some of my contacts in the Pentagon that the Air Force was once again asking its cargo planes to accomplish highly unrealistic missions, such as delivering tanks to the battlefield.

Nevertheless, the Air Force held a competition for the C-X cargo plane, and on August 26, 1981, McDonnell Douglas Corporation emerged the winner. Lockheed did not take the loss lightly and on September 14 gave the Air Force an unsolicited proposal to update the C-5. All fall, memoranda written by airlift experts that were circulated in the Air Force and the Department of Defense insisted that the C-X (now called the C-17) was a better plane.

To my surprise, on January 20, 1982, the Defense Department leaked to the press the news that they would buy Lockheed's new C-5, designated as the C-5B. It did not seem logical that the Air Force, after heralding the C-17 so widely in Congress, would want to have an updated version of one of its most embarrassing procurements. After discussing the matter with Ernie Fitzgerald, who was as surprised as I was, I came to the conclusion that the decision must have been made by the Defense Department as a political bailout for Lockheed.

Our hunch was right: the airlift community was not happy with the political decision to buy the C-5B. Soon a member of the airlift staff contacted me. He was uncertain what I could do and somewhat suspicious of my motivation, but after a few discussions we established a working relationship. I received many of the memoranda that had been sent from the Air Force people to the airlift decision-makers pleading not to bring the C-5 back. One general wrote that the maintenance cost per flying hour of the C-5 was the highest in the Air Force and that, although the C-5 was only 1 percent of the airlift capacity, it used up 14 percent of the spare parts budget. Another general reported that when a C-5 landed at his European air base it clogged the runway because there was no place to park it and it interfered with the *peacetime* operations of the base.

But the most significant document was a brief-

The Pentagon had an opportunity to purchase refitted Boeing 747 cargo planes at a much lower price than the new Lockheed C-5Bs. The 747s were more reliable, could take off from shorter runways, and could carry a third-larger payload. But Air Force officials who doubted the quality of the C-5Bs were even more upset over the idea of purchasing anything commercial for military use. The Pentagon chose the C-5Bs.

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ing Air Force Secretary Verne Orr had given to Deputy Secretary of Defense Frank Carlucci on January 8, 1982, which showed that the C-5 had a very bad maintenance record, that the new version would have the same trouble on the runways, and that Lockheed's proposal had "no enforceable reliability or maintainability warranties." Orr urged Carlucci to stay with the C-17. Yet days later, *after* the Defense Department let it be known it was going with the C-5B, Secretary Orr publicly pushed for the plane.

About that time, another monkey wrench was thrown into the airlift debate. On March 17, 1982, the Boeing Company sent an unsolicited proposal to the Defense Department offering to sell either new or used 747 cargo planes to the government for a much lower price than the new C-5Bs. It was unusual for another defense contractor to challenge a Defense Department decision. So the debate shifted from whether we should buy C-5Bs or C-17s to the C-5B versus the 747 cargo plane. The high-ranking military men who were so upset at the prospect of the C-5 were even more upset with the idea of purchasing the 747s because of their traditional opposition to buying anything commercial for military use, so they publicly rallied around the C-5B. But my airlift "underground," which was concerned with getting a reliable and supportable airlift capability, was not against the idea and continued to leak me documents showing that the 747 could do the job despite what the Air Force maintained.

Besides being half the cost, the 747 had other advantages over the C-5B: it was far more reliable, could take off from shorter runways, and could carry a third-larger payload. Also, once Congress began debating which plane to choose, Boeing made the unprecedented offer of guaranteeing the 20-year life-cycle costs of the 747. This was a blow to the argument for the C-5B because of its extremely expensive and unreliable history of maintenance. Guaranteeing the life cycle costs is common in the commercial airplane business but unheard of in the military plane business because the Pentagon does not insist on it the way the free market does. But Boeing probably felt that they could make this attractive offer because they had been flying and maintaining the cargo version of the 747 all over the world for years and knew what the costs would be.

The 747's best friend was the powerful late Senator Henry Jackson of Washington state, where Boeing has its national headquarters. The C-5B also had powerful members behind it, including Senator Sam Nunn of Georgia, where the C-5B was to be built. Senator Jackson, however, had the most political clout, and, to the astonishment of the Defense Department and the Air Force, the Senate voted 60 to 30 on May 13, 1982 to buy the 747 instead of the C-5B. It was clearly a case where the right decision for the national defense and the taxpayer was made for the wrong reason—pork-barrel politics. In any event, the Air Force and the Department of Defense were in disarray because the vote in the House of Representatives was approaching, and they did not know whether the 747-Jackson forces could win again.

In the middle of June, one of my sources called to tell me that he had heard that the Air Force, the Defense Department, and Lockheed were meeting to plan a strategy to see that the C-5B won the airlift vote in the House. It was at least a gross conflict of interest if not illegal. I called Fitzgerald, and he agreed with me that it was improper for the Air Force and the Defense Department to be involved with Lockheed in this manner. I called my source and asked him if he could get me a list of who was attending these meetings. If I could prove that these types of meetings were going on, I could take the story to the Congress and the press. The source called back in a few days and told me to meet him on a street corner in a small town in suburban Virginia.

The big leak

As my husband and I drove to the meeting spot, I had no idea of the magnitude of the document I was about to receive. The source appeared unusually nervous when we pulled up and I jumped out of the car. He pulled a three-inch thick manila envelope out of his briefcase and handed it to me. I knew from the weight of the envelope that it was not just a list of people attending the meetings. He did not want me to look at it on the street or discuss it with him there and he appeared anxious to move on. So I told him I would call him later.

As we drove away, I opened the envelope and began reading. I could hardly believe my eyes. "This is big," I told my husband as we wound our way back to Capitol Hill.

The computer printout of the lobby plan that I received was 96 pages long and broken down into two sections. The first section consisted of an "action/status" report describing the tasks that Lockheed, Air Force, and Defense personnel (called the C-5B group)—who met three or four times a week—were to carry out. This was the group that my airlift underground had told me about. The second section was a list of members

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Excerpts from Pentagon-Lockheed Lobbying Plan

(Author's explanations in italics.)

ACTION: 05/24 AF [Air Force]
Provide firm Sec Def [Secretary of Defense] position to 2 House Committees plus appropriate Key House leadership.
STATUS: 5/24 LK [Lockheed] draft provided.
6/2 AF [Air Force] draft sent to Sec Def for approval.
6/4 Sec Defense signed letter to Price, Dickinson, Whitten, Addabbo, Edwards, and Michel [all influential members of the House of Representatives]
6/7 Signed and released (Does not address 747) COMPLETE

[One of the most serious problems with this task is that the DOD is allowing a defense company to write the first draft of the Secretary of Defense's position on their weapon which will be given to the Congress as justification for this defense expenditure.]

ACTION: 05/26 DOD
Work specific assignments and get member to member commitments in HAC [House Appropriations Committee], HASC [House Armed Services Committee] and other members.
STATUS:
ACTION: 05/26 LK [Lockheed]
Work specific assignments to get member to member commitments in HAC, HASC and other members.

ACTION: 05/26 AF DOD
Get non-Defense Committee Chairman [a chairman that has a committee not connected to defense] support (like on the B-1).
STATUS: 6/4 AF draft "soft sell" Dear Colleague letter

[A Dear Colleague letter is a letter that members of Congress send to each other on important issues. Here the Air Force was going to write the letter and then try to peddle it to a non-Defense chairman on Capitol Hill.]

ACTION: 5/26 LK
- Have Andy Young work caucus.
- Have Tom Hartnett and McCurdy work freshman.
- Have Evans, Beard, & Gingrich work moderates.

STATUS:

[This entry is a good illustration of how Lockheed had members of Congress and other political figures "work" other members for votes to protect parochial interests. Andrew Young is the mayor of Atlanta, which is located near Marietta, Georgia, where most of the C-5B would be assembled. They were asking him to work the Black Congressional Caucus for votes on the C-5B because he was told that the C-5B contract would bring 8500 jobs into the area. On June 17 he traveled to Washington to "work the caucus." Although you may not think that the liberal Black Congressional Caucus would be a fertile place to woo this type of military vote, in some cases it worked.[5] Congresswoman Shirley Chisholm ended up voting for the C-5B. The other names are members of Congress who had influence with either the freshman members of Congress or moderates.]

ACTION: 05/26 AF DOD
Energize all military associations & obtain leadership and "back home" support.
STATUS: Open
LL [Legislative Liaison]: Issue too split by contractors.

[Here the AF and the DOD were planning to get military associations such as the American Legion and National Defense Council to lobby for the C-5B as necessary to the security of the country. Government agencies are not supposed to seek support from outside groups.]

ACTION: 06/01 AF DOD
Consider ways to obtain support of DOD position from prime contractors and subcontractors like E-Systems, Vought, Northrop, and P & W [Pratt & Whitney].
STATUS: 6/4 DOD & AF have under consideration.

[As though Lockheed's lobbying influence was not enough, the DOD and the AF went looking for other contractors to rally behind the C-5B. Some of these companies were involved in the C-5B contract, some were not. Once again, the DOD went outside to lobby the Congress: all of these contractors have large contracts with the Pentagon —a captured lobby force for the DOD.]

ACTION: 5/27 DOD AF/LK
Develop list of members that Sec Def [Secretary of Defense], Dep Sec Def [Deputy Secretary of Defense], Sec AF [Secretary of the Air Force], Chief of Staff AF, Lloyd [Lloyd Moseman, AF Deputy Assistant Secretary], Hecker [Major General Guy Hecker, head of the AF Legislative Liaison Office and the leader of the C-5B group] should see or call.
STATUS: Continuing.

[At one point when the General Accounting Office was investigating this lobby plan, the AF and the DOD tried to appear as though they were acting separately from Lockheed and only Lockheed was keeping tally of what was going on. This entry clearly shows that the Air Force, DOD, and Lockheed, were all working together to make a list of members of Congress for the DOD and AF "big guns" to lobby for this aircraft.]

ACTION: 06/14 AF
Need heavy hitter to see Mel Price in addition to Jim Allen on it. Need to fix perception that AF not fighting for the C-5. If want it fight for it. He will support Air Force in what it wants.
STATUS:

[Representative Melvin Price was the chairman of the House Armed Services Committee. Evidentally the C-5B group felt that the committee leadership was not convinced that the AF really wanted the C-5B. This was a sign that the disclosures of my airlift underground were having an impact. Obviously whichever "heavy hitter" they sent was able to strike a deal, because the committee voted heavily in favor of the C-5B.]

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> 'Anytime you get competing views, it's customary for the government to work with those contractors whose views are congruent with the President's. . . .All you're seeing is democracy in action. This is the way the system is supposed to work.'
>
> *—Air Force Lt. Gen. Kelly H. Burke*

of the House of Representatives broken down by military committees and another list of the rest of the representatives.

Before me was probably one of the best-documented cases of how the political procurement system inside the Pentagon works and what the Pentagon must do to get a controversial weapon through Congress. There was little on the substantive issues of airlift, but rather material on how to use the pork-barrel to influence Congress for the benefit of a contractor's program. According to the plan, the contractor, Lockheed, the Defense Department, and the Air Force would work hand-in-hand, trading assets and connections each had in Congress. They planned to engage the services of such "heavy hitters" as four-star generals, Senate Majority Leader Howard Baker, the mayor of Atlanta, the secretary of the air force, the deputy secretary of defense, and even President Reagan. This C-5B group was not about to lose this lucrative contract for Lockheed.

(Examples of the first section of the lobby plan, dated June 14, 1982, include the excerpts on page 28.)

The big lie

The second part of the lobby plan, a carefully annotated list of members of Congress, revealed how the weapons procurement old-boy network works. Many have speculated on these unofficial relationships, but rarely has the public been given a glimpse into the backroom maneuvering of the U.S. Congress when it deals with the military-industrial complex. The position of each member of Congress was listed, along with the subcontractors who do business in his district, other members of Congress favorable to Lockheed who might influence him, and further actions necessary to ensure this member's vote for the C-5B (see excerpts on page 30).

Even Fitzgerald, who thought he had seen it all, was impressed with the scope of the lobby plan. Several of my underground advisers reinforced my belief that the plan was a major find, and one of them encouraged me to release it with an embargo. I gave the plan to four reporters and sat back to see what the Defense Department explanation would be. I suspected that many members of Congress would feign outrage, even though some of them were well aware that this type of activity was common in Congress. I expected stony silence from the Pentagon.

The Air Force, however, was unabashed in its response. Consider this account from *The Washington Post*:

"Air Force Lt. Gen. Kelly H. Burke, who is responsible for the proposed C-5 program, said yesterday: 'You're just wrong if you think this is a highly unusual happening. Anytime you get competing views, it's customary for the government to work with those contractors whose views are congruent with the president's. . . .

"'I do not want to sound platitudinous, but all you're seeing is democracy in action. This is the way the system is supposed to work.'"

The problem with this and other Pentagon explanations is that the military claimed that it had arrived at the C-5B solution only after careful scientific study of all the airlift choices. The documents that the airlift underground supplied showed just the opposite. As the memos revealed, Air Force Secretary Verne Orr strongly urged Deputy Defense Secretary Frank Carlucci on January 8 *not* to go with the C-5B; the decision was made to go with that plane a few days later.

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The Pentagon's Scorecard

(Author's explanations in italics.)

Member	Contr. Contacts	Pos	Further Actions
Addabbo, Joseph P. (D-NY) 2256R 225-3461 (AC-Def.S/C-Chairman)	LOK	u	Carlucci one on one Orr one on one. AGAINST C-5 in FY82 markup
Gen. Dyn. (GELAC)	Black-shaw	u	More work to swing
Colt Indust. (GELAC)	Bolles		Will contact
Gen. Dyn. (GELAC)	Stirk		'Buy both C-5s & 747s' RKC: see Seelmyer (A/A)

[LOK is Lawrence O. Kitchens, president of Lockheed Corporation, and RKC is Richard K. Cook, vice-president of Lockheed. They were planning to have Deputy Secretary of Defense Frank Carlucci and Secretary of the Air Force Verne Orr go one on one with him. Representative Addabbo received so much attention because he is the chairman of the House Appropriations Subcommittee on Defense and his vote would swing other members' votes.]

Goldwater, Jr., Barry M (R-CA) 2240R 225-4461			
Sterer PAC (CALAC)	Lein-berry		PAC wired
Gen. Design (LMSC)	Globic		Will contact

[Note that he had a "PAC wired," too.]

Brooks, Jack (D-TX) 2449R 225-6565	RKC	u	Marine or Army follow-up
Menasco (GELAC)	Haw-thorne		Letter sent 5/24
			LK PAC

[Note that the LK PAC (Lockheed Political Action Committee) was notified, possibly to give a contribution to this member's reelection campaign. Jack Brooks is the powerful chairman of the House Government Operations Committee.]

Duberstein, Kenneth (Asst. to the Pres.)	RKC	s	Wk of 6/1; Brinkley (GA delegation) re: budget. 1 pg 747 Q & A

[As assistant to President Reagan for congressional affairs, his influence was very important in this vote.]

Vander Jagt, Guy (R-MI) 2409R 225-3511	RKC	u	White House & House GOP leader contacts
Consultant (CORLAC)	Kendall		Will contact

[Once again, the planners hoped to use White House influence to sway this powerful member of Congress.]

The people involved in the lobby effort did not see anything wrong with it and felt their work was "democracy in action," business-as-usual. It was a good illustration of how the contractor's and the Pentagon's priority became the same: to give Lockheed more work for its idle plant in Georgia. The national security consideration of getting the most effective airlift or sealift for the least money to make sure our troops were well supplied fell by the wayside.

But the more frustrating end to this story is that the lobby plan worked. After all the disclosures about the C-5 and the release of the documents leaked by the underground, which showed the Pentagon and the contractor were manipulating Congress through an elaborate pork-barrel scheme, the House voted on July 21, 1982, 289 to 127, for the C-5B. The Senate later added its approval of a $10 billion program based on pork-barrel influences instead of on the real need for national defense at the best price.

Bringing home the bacon

Several members of Congress, some of whom were on the other side of the C-5B debate, were upset by the lobby plan. Rep. Jack Brooks, chairman of the House Government Operations Committee, called for an investigation by the General Accounting Office (GAO). The House Armed Services Subcommittee on Investigations announced that it would hold its own hearings on the legality of the plan. During these hearings the Air Force and Lockheed officials once again proclaimed they had done nothing illegal or improper. They admitted they had worked together and compared notes on their congressional contacts but claimed their actions were not wrong. Their denials were similar to those reported in the papers after the lobby plan became public. It was revealed in the hearings, however, that the lobby plan was the brainchild of Lawrence O. Kitchens, the president of Lockheed, who was present at many of the C-5B group hearings.

The GAO called for the Justice Department to investigate four top-ranking officials in the Air Force and the DOD for possible criminal violation of the antilobbying law. They were Major General Guy Hecker, director of the Air Force Office of Legislative Liaison; Russell Rourke, assistant secretary of defense for legislative affairs; Frank Carlucci, deputy secretary of defense, who was the number-two person in the Office of the Secretary of Defense; and Verne Orr, secretary of the air force. I was surprised that the GAO investigators, and especially their bosses, would go

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so far as to point the finger at such high-ranking officials, especially since Rourke, Carlucci, and Orr were presidential appointees. Usually controversial investigations implicate only the lowest-ranking people in the bureaucracy to avoid the political heat of naming high officials.

To my frustration, the Justice Department let the case sit until the end of February 1983 and then decided to close it. A Justice Department spokesman told Bob Adams of the *St. Louis Post-Dispatch* that "the decision had been made because 'no prosecutable violation' of the federal anti-lobbying statutes had been found."

Evidently the Justice Department did not try very hard to find evidence. A GAO official told Adams that Justice did not ask to see the GAO's backup documents or call anyone on the investigation team.

By then Congress and, for the most part, the press had moved on to new investigations and scandals. After the Justice Department's announcement, several members of Congress promised reform and new legislation. Secretary Weinberger had written new guidelines for the legislative people in the Pentagon to avoid an "appearance" of improper cooperation with contractors, but my underground reported to me that those involved in the lobby plan were telling everyone that they were "vindicated" and that it was back to business-as-usual.

Needless to say, the people who had worked so hard and taken so many risks to get the real airlift story to the public were extremely disillusioned. I can't help believing, however, that public disclosure of these practices made the officials more careful about such business-as-usual activities and also made the public more aware of how and why our weapons are procured.

Cases such as this one happen every year with other weapons; they just rarely receive any attention. Every year the Pentagon sends a budget to Congress and with it comes a horde of industry lobbyists. It is not by accident that many of the largest defense contractors are located in the states of the prominent members of the Armed Services and Appropriations committees. In many cases, a member of Congress, because of his influence, has brought defense plants or bases to his state, or he has lobbied to be on defense committees to help protect the defense economy on which so many of his constituents' jobs are based. This system has been building since World War II, and the constituents of a district or state have continued to reward members of Congress who "bring home the bacon" of defense contracts. ■

THE WASHINGTON MONTHLY

Journalism Award

for September 1985 is presented to

John Aloysius Farrell
The Denver Post

In a series of articles, Farrell reveals that murders, rapes and other major crimes often go unpunished on many of the nation's Indian reservations, jeopardizing economic progress and creating an environment of fear. The grisly details of this unchecked lawlessness make for compelling reading, but Farrell provides more: a careful explanation of the tangled knot of jurisdictional obstacles and bureaucratic red tape that prevent hundreds of serious felonies from being resolved or prosecuted each year. Among the obstacles blocking effective law enforcement are the U.S. Departments of Justice and Interior, which are responsible for policing the reservations but frequently seem indifferent to crime when its victims are Indian rather than white.

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation.

The award for stories published or aired in November will be announced in the February issue. Nominations will close December 15. Nominations should be accompanied by two copies of the story or stories.

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MEMO OF THE MONTH

ate of California

Memorandum

Date : December 4, 1984

To : Management Committee

From : Public Utilities Commission — San Francisco

-- Sheldon Rosenthal
Assistant General Counsel

File No.:

Subject: Orientation Class

Bob Wilson and I gave the first of the new orientation classes to new members of the Commission Staff today. In attendance were 21 employees from all areas of the staff other than Legal and ALJ. The mix included professional and non-professional workers.

Bob covered the personnel areas and I took the rest. Our impression was that it was tremendously successful (in all modesty). The group asked excellent questions, stayed alert for 2½ hours, and were generally pleased with the introduction to the Commission. It was a "no holds barred" session, wherein any question was legitimate. On to L.A. tomorrow.

The most important aspect for your immediate concern is what occurred during the time when employees introduced themselves, identified their assignment, and were to describe what they were supposed to be doing. People from all division had a very difficult time saying what their job was. Four frankly said that they didn't know what they were supposed to be doing. This revelation made the entire course worth while. We as supervisors are failing if the people who we supervise don't know what their job is and how it fits in. Some of these people had been here for as long as six months. We need to get our act together.

SR:ddb

(burn this memo)

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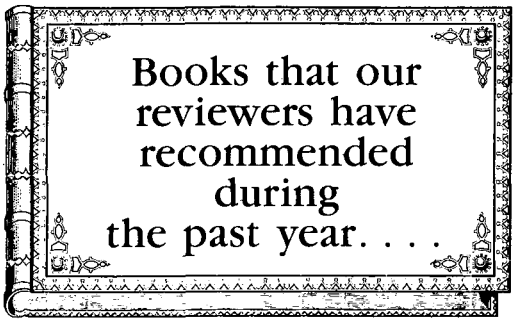
CHRISTMAS BOOK SECTION



Eisenhower: The President. Stephen E. Ambrose. *Simon & Schuster, $24.95.*

Childrens' Hospital. Peggy Anderson. *Harper & Row, $18.95.*

Strategic Command and Control: Redefining the Nuclear Threat. Bruce Blair. *Brookings Institution, $32.95.*

International Security Yearbook 1984/1985. Barry M. Blechman, Edward Luttwak, eds. *Georgetown University Center for Strategic and International Studies, $33.*

The Righteous Cause: The Life of William Jennings Bryan. Richard Cherny. *Little, Brown, $15.95.*

The Lost Soul of American Politics: Virtue, Self-Interest, and the Foundations of Liberalism. John Patrick Diggins. *Basic Books, $23.95.*

Weapons and Hope. Freeman Dyson. *Harper & Row, $17.95.*

The Floating Island: A Tale of Washington. Garrett Epps. *Houghton Mifflin, $14.95.*

Lay Bare the Heart: An Autobiography of the Civil Rights Movement. James Farmer. *Arbor House, $16.95.*

The Uncensored John Henry Faulk. John Henry Faulk. *Texas Monthly Press, $16.95.*

The Button—The Pentagon's Command and Control System—Does It Work? Daniel Ford. *Simon & Schuster, $16.95.*

Secret Agenda. Jim Hougan. *Random House, $15.95.*

The Life Insurance Game. Ronald Kessler. *Holt, Rinehart & Winston, $16.95.*

Small World. David Lodge. *Macmillan, $19.95.*

Common Ground. J. Anthony Lukas. *Knopf, $19.95.*

Playing God in the Nursery. Jeff Lyon. *Norton, $18.95.*

Beyond Liberal and Conservative: Reassessing the Political Spectrum. William S. Maddox, Stuart A. Lilie. *Cato Press, $18.00.*

Direct Legislation: Voting on Ballot Propositions in the United States. David B. Magleby. *Johns Hopkins University Press, $27.50.*

The Policy Game: How Special Interests and Ideologues Are Stealing America. Peter Navarro. *John Wiley & Sons, $18.95.*

Freedom Rising. James North. *Macmillan, $19.95.*

Passage to Peshawar. Richard Reeves. *Simon & Schuster, $15.95.*

New Deals: The Chrysler Revival and the American System. Robert R. Reich. *Times Books, $17.95.*

The Chip: How Two Americans Invented the Microchip and Launched a Revolution. T.R. Reid. *Simon & Schuster, $15.95.*

Distant Neighbors: A Portrait of the Mexicans. Alan Riding. *Knopf, $18.95.*

Funny Money. Mark Singer. *Knopf, $15.95.*

With All Disrespect: More Uncivil Liberties. Calvin Trillin. *Ticknor & Fields, $14.95.*

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PAPER PEACEKEEPERS
THE UNMET PROMISE OF THE U.N.

by David Ignatius

Supporters of the United Nations and its global peacekeeping mission should consider the lesson of FIJIBAT.

FIJIBAT is the military name for a battalion of troops from the Fiji Islands that, during the early 1980s, formed part of UNIFIL, the United Nations Interim Force in Lebanon. The roughly 6,000-man UN peacekeeping force has also included Scandinavian troops—known as NORBAT and FINBAT—as well as contingents from such unlikely countries as Ghana and Senegal.

Most of UNIFIL is an expensive joke and an illustration of why the United Nations has failed so miserably in its central task of keeping the peace and deterring aggression among nations. The UNIFIL mission looked sensible on paper. After the 1978 Israeli incursion into Southern Lebanon, the United Nations voted to send troops to police a buffer strip between the major PLO strongholds of South Lebanon and the Israeli border. Their job, in theory, was to separate the combatants—to curb Palestinian attacks against Israel and to block a new Israeli invasion of Lebanon.

In fact, UNIFIL proved to be a toothless, pseudomilitary force that didn't deter anyone from doing anything. It failed to prevent Palestinian rocket attacks against the Israeli towns of northern Galilee; later, when the Israeli army invaded Lebanon in June 1982, UNIFIL stepped politely aside. The UNIFIL forces presented an absurd sight in South Lebanon, traveling from village to village in their antiseptic white Jeeps, tut-tutting the locals and issuing dire warnings, but never doing anything credible to keep the peace.

Except for FIJIBAT. The Fijians, it was said, had a simple way of handling troublemakers. Rather than issue European-style reprimands to misbehaving Palestinians, they simply broke their fingers.

"The Fijians didn't mess around," recalls one State Department official. "If the rule was you weren't to carry a gun across a checkpoint, then the Fijians made sure you weren't carrying a gun." In the process of enforcing the rules, the Fijians lost 18 men, more than the other contingents of UNIFIL. They even tried briefly in 1982 to stop the invading Israelis from crossing a bridge in their sector, until cooler heads at UNIFIL command prevailed.

The story of FIJIBAT was related to me in Beirut several years ago, probably at a hotel bar late in the evening, so I cannot vouch for the finger-breaking detail. My informant claimed that in the vicinity of FIJIBAT you could see scores of Palestinians with finger splints. Alas, I never found any. But the broader point remains valid: you won't be taken seriously as a peacekeeper, in South Lebanon or anywhere else, unless you're prepared to break a few fingers.

A 'cosmic overselling'

The UNIFIL debacle in Lebanon is a small example of the global problem that Thomas Franck explores in *Nation Against Nation*.* His topic is the failure of the UN to accomplish the "two principal tasks. . .on which it ultimately must be judged"—resolving disputes among nations and, failing that, deterring or resisting aggression. After marshaling overwhelming evidence of this failure, he notes the depressing statistic that since the UN was founded in 1945, 20 million people have died in wars.

Reckoning with the failure of the UN is a pain-

David Ignatius, a former editor of The Washington Monthly, *worked from 1980 to 1983 as Middle East correspondent of* The Wall Street Journal. *He was recently named associate editor of* The Washington Post *in charge of the "Outlook" section.*

**Nation Against Nation: What Happened to the U.N. Dream and What the U.S. Can Do About It.* Thomas M. Franck. *Oxford, $19.95.*

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ful process for anyone who grew up in the post-war era of hopeful, high-minded liberalism. For the UN was in many ways symbolic of that liberalism. It represented the belief in human perfectibility, the notion that institutions could transform the base human instincts that produced wars, and the dream of an international brotherhood of man. This was the "secular humanism" that conservatives denounce today, and the UN was perhaps its holiest shrine.

The robust post-war world that produced the UN is now, for me, a set of childhood memories: playing with my father's World War II medals and hearing stories about how the good guys had won; listening to the voice of Edward R. Murrow on the 78-rpm version of "I Can Hear It Now" as he described the horrific history of the 20th century converging on the explosion of the atom bomb and the foundation of the UN—and asking in his gravelly voice whether in 1945 the world had reached midnight and the end or "walked into a new dawn"; visiting New York as a boy and looking, awestruck, at the clean, austere facade of the UN building on the East River; even the silly Halloween ritual of trick-or-treating for UNICEF, which was another part of the kids' version of the age of high liberalism.

Those memories seem faintly comical now, reminiscent of an era—confident, naive, sentimental—that has passed as surely as the Old South. The American public is more cynical now about an international body full of high-living Arabs and Africans who seem to spend most of their time wasting American money and denouncing Israel. Indeed, the public image of the UN today is probably close to the MacNelly cartoon that shows unshaven delegates from places with unpronounceable names sitting in the General Assembly with pots on their heads.

Franck argues that the UN has fallen so low in the public esteem largely because of the "cosmic overselling" of the early days. He explains: "No understanding of the present attitudes of Americans toward the UN can be achieved without taking into account the utterly false premises on which the UN charter was based, and then sold to the public." He quotes a telling example of the near-religious enthusiasm for the UN in a 1945 lobbying message to Congress from a Unitarian group in support of the organization. "It all adds up to this: whether there is to be World War No. 3 is up to you."

The fundamental problem, Mr. Franck suggests, is that the UN charter was premised on a belief that individual states would subordinate their national interests (or at least unilateral military actions in pursuit of those interests) for the sake of the larger good of world government. The past 40 years have been a continuous lesson in the unrealism of that premise. Lacking a monopoly of force, the UN has been powerless to restrain its well-armed members.

The value of Franck's book is that it should convince readers to stop complaining about the UN and take a more realistic view of how and why it has fallen on such hard times. Indeed, he presents convincing evidence that the U.S. is to blame for some of the UN's worst problems.

Take the UN General Assembly, the buffoonish, pot-headed gathering that, in the American view, has hijacked the UN. Franck demonstrates that it was the U.S.—not the Soviets and their Third World cronies—that engineered the transfer of power from the Security Council to the General Assembly in the early 1950s. The Americans thought they had come up with a clever stratagem for getting around Soviet vetoes in the Security Council. But the British Foreign Office warned at the time that the move was unwise because of the coming surge of newly independent Asian and African nations.

A look at the 1984 membership totals shows why the General Assembly is an awkward forum for American interests. Like most legislative bodies, it breaks down into voting blocs that trade support on major issues. By Franck's count, out of 159 total members, there are 120 developing nations, 99 members of the non-aligned movement, 50 members of the African Group, 33 members of the Latin American Group, and only 22 members of the Western European Group.

The Middle East briar patch

As for the UN's failure as a peacekeeper, Franck argues that the U.S. must also share some of the blame. The U.S. was delighted in 1950 to obtain UN cover for its defense of South Korea (achieved only because of a foolish tactical blunder by the Soviets, who boycotted the Security Council meeting that approved the UN force); but when Guatemala requested help in suppressing a CIA-sponsored coup in 1954, the U.S. blocked action by the Security Council. The Soviets followed the same approach when they invaded Hungary in 1956.

The UN is in tatters today partly because it has fallen very deep into the briar patch of the Middle East. The organization's cheerleading role for the PLO is part of the problem. But I think the deeper difficulty is that the UN has devoted an

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enormous amount of its energy, money, and good will to the thankless, perhaps hopeless, task of trying to solve the intractable problems of the Middle East. For example, Franck counts 13 UN peacekeeping missions since the organization was founded: Greece, Pakistan, Kashmir, Suez and Gaza, Lebanon, Jordan, Zaire, West Irian, Yemen, Cyprus, India, Pakistan, and Syria. What's remarkable is that more than half of these missions have been in the Middle East.

Franck reaches a conclusion that might best be described, in this magazine at least, as "neo-liberal." He implies that a sound approach to the UN should reject the wet-lipped reverence of traditional liberalism and the whining and carping of the neoconservatives. The U.S. should use the power of the purse (we paid 25 percent of the assessed budget in 1982) to restrain the miscreant UN bureaucracy. We should look at how countries vote in the UN in distributing foreign aid, so that cheap shots from Third World countries are no longer costless. We should recognize the useful mediating role that the UN secretary general can play in world conflicts, from Cyprus to the Iraq-Iran war.

Instead of the feel-good conservative approach of quitting the UN, Franck prescribes what I would call a get-tough liberalism. "For the present," he writes, "the U.S. national interest is better served by a muscular strategy of staying in." ■

CRIME & HUMAN NATURE

JAMES Q. WILSON
RICHARD J. HERRNSTEIN

BORN TO ROB? WHY CRIMINALS DO IT

by James Fallows

In one of his not-for-network-TV routines, Richard Pryor stops in the midst of a stream of dirty jokes and talks pensively about his film, *Stir Crazy*. To prepare for their roles as men unjustly thrown behind bars, Pryor says, he and Gene Wilder spent time with convicts from an Arizona penitentiary. The two stars talked with these unfortunates, heard their stories, got to know them and their families, caught glimpses of their souls. The experience of living and working with these men made a deep impression on him, Pryor says, with the sobriety that has come over him since he nearly burned himself to death while free-basing cocaine. It left him with a message to bring to those who'd never had the same cross-cultural exposure. And the message was, thank God for the penitentiary!

The idea that criminals really are different from other people, and not just hapless Jean Valjeans locked up for no graver offense than a desire to feed their young, is the initial proposition of James Q. Wilson's and Richard Herrnstein's new book*. Since that contention rests, in turn, on Wilson's and Herrnstein's theory that certain people are genetically predisposed to a life of crime, it has provoked most of the controversy surrounding the book. *Crime and Human Nature* is a provocative book, but not because of its hereditarian views. Its most unsettling message does not concern what happens to future criminals before they are born but rather what occurs thereafter.

Crime and Human Nature is a dense, academically oriented, and encyclopedic work, which divides the sources of criminality into three broad categories. The first is the innate characteristics—or, as the authors put it, the "constitutional factors" —that distinguish violent criminals from people at large. This is the section that has dominated discussion of the book, and it is easy to understand why. One simple reason is that this topic comes first in a book that is such arduous going that many readers never reach section two. Of the book's 20 chapters, only three or four—on the influence of parental discipline and the history of attitudes toward crime—

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**Crime and Human Nature.* James Q. Wilson, Richard Herrnstein. *Simon & Schuster, $22.95.*

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are carefully constructed essays, systematically building an argument and deploying evidence deftly. Both Herrnstein and Wilson have previously shown themselves able to write lucid prose, but in most of *Crime and Human Nature* they dutifully plow furrows through acres of facts, leaving the reader to trudge behind.

Another reason for the emphasis on heredity in the controversy is that, to the general public, Richard Herrnstein is best known as the author of *I.Q. in the Meritocracy*. That book, published a dozen years ago, offered an unyielding view of the connection between heredity, intelligence, and occupational success. (The "meritocracy" had begun to work so smoothly, Herrnstein argued, that the smart people were all rising to the top; as they passed their intelligence on to their children, a new hereditary aristocracy was being born.)

Bad boys

In this new book, the discussion of inborn "constitutional" factors is more modest and carefully phrased. Wilson and Herrnstein are not talking about anyone who has ever broken the law, but rather about the handful of repeat offenders who continue to commit crimes until they are caught, killed or injured, or rendered less dangerous by the enfeebling forces of age. Certain physical and mental traits, they say, show up far more often among this group than among the population at large; and while no one is "born" a criminal (as one might be born a hemophiliac or color-blind), some people are born more likely to become criminal than others. "There is no 'crime gene,'" the authors write, "but some traits that are to a degree heritable, such as intelligence and temperament, affect to some extent the likelihood that individuals will engage in criminal activities."

The most important "genetic" factor is gender: not all men are violent criminals, but almost all violent criminals are men, especially young men. The precise proportions vary from country to country, but around the world, "males are five to 50 times as likely to be arrested as females." For example, in the United States, 90 percent of those arrested for violent crimes between 1960 and 1980 were men. On this point, as in their discussion of other "constitutional" factors, Wilson and Herrnstein grant that social convention may play some part in conditioning boys to behave differently from girls; but "role models" and expectations go only so far. The chronic violent criminal, they say, is more impulsive in his actions than people at large and lacks what can only be called a "conscience," which would allow him to empathize with how others may feel about being robbed or raped. (Wilson and Herrnstein say that the conscience is so atrophied in some chronic criminals that it's impossible to get a lie-detector reading from them; they don't sweat, breathe quickly, or show any other sign of anxiety about lying.) These traits, to greatly simplify the book's argument, are in turn often associated with aggressive behavior early in life, even in infancy—and many more children who behave this way are boys than girls.*

The other main constitutional trait is low intelligence, whose influence is explained in the same limited way: low IQ scores never create a criminal, but many criminals have low IQs. In contrast to Herrnstein's earlier work, *Crime and Human Nature* underplays any sweeping claims for the precision or significance of IQ scores. To some extent they may be inherited, to some extent they may be determined by environment, but whatever their genesis, low IQ scores (and the associated difficulty in school and fatalism about the future) seem to be correlated with criminality.

For anyone who has not read his way through the daunting mound of academic studies that buttress the book's argument, it is hard to challenge *Crime and Human Nature* on detailed points. Taken at face value, the propositions that males are more aggressive than females and that less intelligent people are more likely to resort to violent acts than those who make their living as MDs pass the test of common sense. Wilson and Herrnstein, however, introduce one other "consitutional" factor that, for me at least, simply defies belief. They carefully distance themselves from the phrenologists and physiognomists of yesteryear, who looked for signs of larceny in the topography of the temple or the jut of the jaw—but then embrace the neo-Lombrosian proposition that criminals have a distinctive "body type."

The only photographs in the book come early, in the "constitutional" section; five blindfolded male nudes are lined up, and from the contrast of their body types we are supposed to learn

*Wilson and Herrnstein quote from an exhaustive academic review of studies of sex difference, which concluded: "(1) Males are more aggressive than females in all human societies for which evidence is available. (2) The sex differences are found too early in life, at a time when there is no evidence that differential socialization pressures have been brought to bear by adults to 'shape' aggression differentially in the two sexes. . . . (3) Similar sex differences are found in man and subhuman primates. (4) Aggression is related to levels of sex hormones and can be changed by experimental administration of these hormones."

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'The parents of antisocial children are less likely than others to state clear rules, monitor compliance, and punish violations of those rules. Instead, they "natter" at the child, unpredictably interrupting the nattering with a slap or loss of privileges.

that "mesomorphs deficient in ectomorphy" — that is, well-muscled, non-lanky young men— are more likely to turn to crime. Most of the studies on which this conclusion is based are 30 to 40 years old, which makes them more dated than most of the other data Wilson and Herrnstein cite. One of the most prominent, which crops up in practically every chapter of the book, is a survey of 500 delinquent and 500 nondelinquent boys conducted in the early 1950s by two researchers named Glueck; ever since, as Wilson and Herrnstein point out, its procedures have been attacked by other scholars. Wilson and Herrnstein blandly assure us that "a skilled body-typer can take some account of such factors as age, nutrition, and health" in distinguishing body types. Come on. What is the diet and exercise industry based on, if not on the belief that body type can be changed? What about Teddy Roosevelt or Charles Atlas? I have had several "body types" in the past 20 years (including a configuration that, according to Wilson and Herrnstein, is typical of the insane), and I bet I'm not the only one. Maybe "body-typing" is a perfectly respectable discipline with important implications for human behavior, but on the basis of the evidence offered here, it simply sounds wacky.

The culture connection

With their consideration of constitutional factors out of the way, Wilson and Herrnstein devote the last two-thirds of their book to "developmental" and "social" factors: the way a personality is formed during its upbringing and the signals and incentives society later provides.

Chapter by chapter, they move through the most familiar influences on crime—drugs, poverty, broken homes, violent shows on TV. Narcotics are an important indirect cause of crime, since addicts always need money, but most addicts were criminals before they turned to drugs, Wilson and Herrnstein say. Alcohol, on the other hand, is a monumentally important direct cause of crime, since people become more aggressive and impulsive under its sway. ("In one study of 588 homicides in Philadelphia, [Marvin] Wolfgang found that alcohol had been used by assailant, victim, or both in nearly two-thirds of the cases.") One-parent families do not necessarily produce criminal children, but children from violent or abusive families are very often disturbed as adults. Long hours in front of the TV do not do visible harm to children who are otherwise nonaggressive, but those who are aggressive to begin with become more so after seeing televised violence—and they are more likely than the others to watch a lot of TV. Attempts to rehabilitate violent criminals have generally failed; efforts to intervene in unhappy families, however, have had better results. Unemployment and poverty are not correlated with crime in any obvious or systematic way. As America has moved through its business cycles, crime rates have followed a logic of their own: they fell gradually both during the Depression and during the postwar boom, and then soared during the 1960s, when the U.S. enjoyed a prosperity it had never known.

That dramatic increase in crime, starting in the 1960s, of course, is what most people think of when they hear about a crime problem, and it leads Wilson and Herrnstein to their most provocative conclusions. Whatever may be the role of gender and temperament and even body type, the gene pool that gives rise to such "constitutional" factors cannot have changed greatly between 1960 and 1980. Yet during those years arrests for serious crime in the U.S. rose by 300 percent. Some factor other than heredity was obviously at work.

Most people are familiar with one explanation for the boom in crime rate and for the recent leveling-off. Since most crime is committed by young males, and since the baby boom dumped a glut of young males onto the market starting in the early 1960s, it is only natural that crime would suddenly rise—and then begin to fall, as the supply of teenage males declines. This explanation is comforting, since the demographic trends are now moving in a law-abiding direction, and Wilson and Herrnstein say that it does account for some of the recent reduction in crime; it also offers the reassuring implication that nothing in the social fabric has fundamentally changed. But they warn that it would be a mistake

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to draw much solace from this trend:

> There is no doubt that the changing age structure of our society accounted for a significant part of the crime increase, but considerable doubt that age effects explained most of it. Less than half—in several estimates, much less than half—of the increase can be attributed to the greater proportion of young persons in the population. The clear implication of these studies is that the average male committed more crimes during the 1960s and 1970s. [For example,] the homicide rate was going up because young persons were becoming more homicidal and not simply because there were more young persons.

That is, something must have changed in American culture, starting in the early 1960s, to make crimes more necessary or palatable. In previous books Wilson has blamed the change on the excesses of our "self-expressive" age. Here, the argument boils down to two main assertions: that parents became less "good" at raising children and that society as a whole abandoned its efforts to convey cultural messages about discipline and self-restraint.

Parental crimebusters

The essence of "good" parenthood, as Wilson and Herrnstein see it, is the slow, steady transmission of signals that teach a child the connection between action and consequence. If he is loving, he will be loved; if he is cruel or destructive, he will be punished; if he tries hard, he will be more likely to receive his reward. They describe studies of the parents of "problem" children and say that these parents:

> differed from those of normal children not so much in whether they punished too much or too little, but in that the former did not know *how* to punish. The parents of antisocial children did not make their use of penalties contingent on the child's behavior. More precisely, these parents were less likely than others to state clear rules, monitor compliance with those rules, and punish violations of those rules. Instead, they 'nattered' at the child, occasionally and unpredictably interrupting the nattering with a slap or loss of privileges.

To turn the question around, Wilson and Herrnstein ask what traits distinguish children who have proven extraordinarily resilient—those who have turned out happy and relatively successful despite extreme poverty, birth defects, absent or unemployed fathers, and other early handicaps. Among the consistent findings was that these children, along with being first-born, had received intense, consistent, loving, and demanding attention from a mother determined that her child turn out right. By contrast, children of the "unskilled" parents, who were not consistent in their discipline, learned that their actions did not have predictable consequences: "The child...comes to understand that he cannot control by his own actions what happens to him. When one receives penalties unconnected to one's own behavior, one experiences a kind of stress that [one authority] has called 'learned helplessness.' "

It is to this defect in parental "skill," and not to the rise of single-parent families, that Wilson and Herrnstein attribute some of the disproportionately high rate of crime among the black lower class. I say "seem" and "some" because the chapter on race and crime is the most cautiously written in the book, and the authors are clearly aware that talk about incompetent parents is explosive. (Although *I.Q. in the Meritocracy* was only indirectly about race, Herrnstein was lambasted for his alleged racism for years afterwards.) They consequently stick very close to an explication of previous studies and then offer a hypothesis that, again, meets the test of common sense. They say that when teenaged girls have children, the struggle to provide consistent discipline—difficult under the best circumstances—often proves overwhelming.

According to the studies Wilson and Herrnstein cite, these young mothers tend to love and indulge their children as infants, but grow vexed and impatient as their children move into the more complicated stage of toddlerhood and

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In finding a source of hope for the underclass and a means of controlling violent crime, government can do some of the work—but the culture has to do the rest.

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beyond. In a study of child-rearing in a San Francisco ghetto, one researcher found that the "comparatively nurturant childhood pattern. . .tends to give way to a rather severe rejection about the time the infant shows sufficient individuality to try to explore and manipulate his environment by walking and making verbal demands." When a new baby arrived, the older child "was increasingly told, 'Get out of here—you bother me.'" "Some children reacted against this sudden lessening of affection by becoming sullen or rebellious, behavior that often provoked the mother to send the child out of doors to get him 'out of her hair.'"

Wilson and Herrnstein offer no clear explanation for the supposed fall-off in parental skill—except that it is part of the other trend they describe, the changing social attitude towards discipline and self-control. Here their most impressive evidence is historic. During the 1820s and 1830s, crime rates shot up in both England and the United States, as the first of many waves of industrialization and urbanization set hordes of uprooted young men loose among the temptations of big-city life. Alcohol consumption soared (from an estimated 2.5 gallons per capita in the U.S. in 1790 to 10 gallons in 1829); brawls and street crime grew common.

"Americans were appalled at the disorder of their growing cities," Wilson and Herrnstein say.

> The responses of these horrified citizens were various—religious revivals, temperance movements, Sunday school instruction, YMCA buildings, the foster-home movement, the creation of public schools—but all had in common a desire to instill 'decision of character.' In myriad ways but with extraordinary singleness of purpose, Americans (and Englishmen) in the mid-nineteenth century invested heavily in programs designed to inculcate self-control and thereby enhance character. These efforts were directed at what reformers took to be the causes of crime and disorder—impulsiveness and a lack of conscience.

Wilson and Herrnstein say that the impact of these efforts cannot be scientifically measured. But through the rest of the nineteenth century, even as American society reeled from warfare, industrialization, immigration, the rise of the great autonomous cities, and the emergence of an oppressed industrial class, crime rates continued to decline. The deliberate effort to instill self-control—through churches, schools, homilies in magazines—fell off in the mid-twentieth century, they say, and at about the same time crime rates began their dramatic rise.

Beyond government solutions

In this condensed form, it may sound as if Wilson and Herrnstein are arguing that the only way to deal with crime is for people to start fearing God and living right. Perhaps that really is the point they mean to make, but they also advance a subtler and more practical argument. In political discussions and proposals for political action, people often find it awkward to talk about general cultural trends—in religion or child-rearing or the stability of families. Yet those broad trends often turn out to have a big effect on the problems with which politics must contend, such as crime.

This awkwardness is of course most acute for liberals, who do not wish to emulate the self-congratulatory religiosity of the TV preachers or the prayer-breakfast devotees, and who resent the endless Reaganesque anecdotes proving that poverty is caused by morally lax welfare queens. But in almost every aspect of politics that now matters to liberals, questions of culture may be as important as government policies. Finding a source of hope for the urban underclass, sustaining American competitiveness, bolstering the public schools and other vehicles of democratic contact and opportunity, offsetting the me-first ethic of special interest politics, controlling violent crime—in these and other areas, the government can do some of the work, but the culture has to do the rest. Part of the reason government efforts did work so well during liberalism's golden era, from the New Deal through the Great Society, may have been that the cultural underpinning laid by the pious nineteenth century strivers was still in place.

Recognizing that culture is politically and economically important does not by itself answer specific "what do we do next?" questions about crime or anything else. The one area where liberals and conservatives both believe that the government should try to influence culture directly is the schools, which is why they are such a chronic battleground. Some cultural questions, such as parents' "skill" at child-rearing, may not have any appropriate governmental solution; in other cases, tax policy or training programs or the presence or absence of a military draft may have enormous cultural consequences. In *Crime and Human Nature*, Wilson and Herrnstein force our attention to those consequences, and for that they deserve credit. ■

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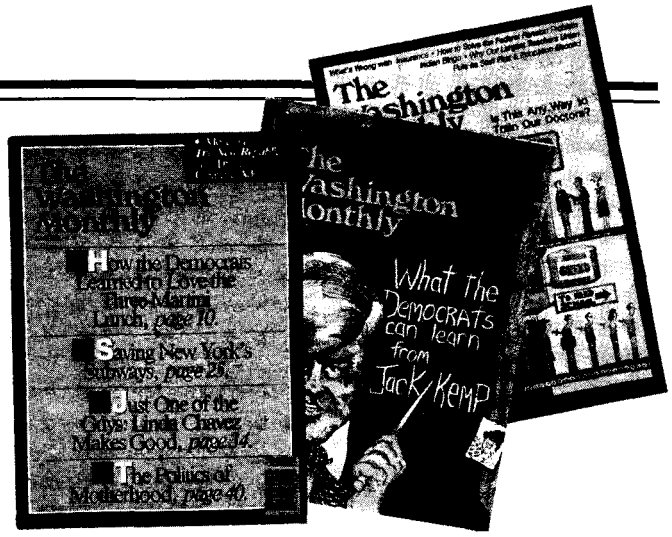

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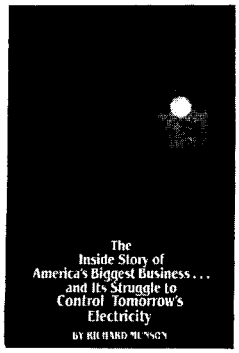

OVERCHARGE
HOW WE'RE WIRED BY THE UTILITIES

by Philip Keisling

The nation's electric utility companies are the great icebergs of the American economy. Their vast, largely submerged bulk eludes the attention of the public. Last year, electric utilities accounted for one-half of all new common stock issued in America and one-third of all new corporate financing. Annually, the utilities spend four times more on new equipment than all U.S. automakers. The industry has a long-term debt of $100 billion, on which annual interest payments, passed on to ratepayers, exceed $10 billion.

The danger posed by these icebergs is reflected in some different numbers. The nation's utilities are currently awash in excess power, having gone on a construction binge in the last two decades that has left them with 40 percent more capacity than needed to meet current demand. This is despite the industry's abandonment, since 1973, of more than 150 unfinished nuclear- and coal-powered plants.

One consequence of this colossal economic miscalculation is that monthly utility bills for the typical consumer have tripled since 1973. More rate shocks lie ahead. For example, customers of the Public Service Company of New Hampshire, owners of the troubled Seabrook nuclear power plant, soon will see their bills leap 182 percent when the $4.5 billion plant is finally completed.

If this suggests the wisdom of refraining from further construction, you'd never know it from the multimillion-dollar advertising campaign the utilities are now waging under the auspices of the Edison Electric Institute. The ubiquitous ads warn of devastating power shortages in the near future unless Americans face up to the challenge at hand. According to industry planners, that challenge demands the building of 438 large central generating stations in the next 15 years. That's almost two new plants a month, at a total cost of *$1.8 trillion*.

Such a lopsided use of the nation's limited pool of investment capital might be palatable if the industry's premise that more electricity use equals more progress were true. Experience and logic, however, suggest just the opposite. What happened to the consumption of another key source of energy—oil—during the 1970s? As its price rose tenfold, consumption plummeted. Consumers found countless ways to conserve, and the government put a healthy dent in oil consumption by mandating fuel-efficient automobiles. While two OPEC price shocks clearly damaged our economy, they did not destroy it; real economic growth during the 1970s still was greater than during the 1950s.

What's happening now with electricity is similar to what happened with oil. It's also something any Economics 101 student could have predicted. As prices have spiraled upwards, consumers have moderated or even reduced their demand. The specialty steel and aluminum industries, for example, have discovered that investing in modern equipment that lowers electricity costs is one of the best strategies for survival in a competitive market. As for the electricity-equals-progress equation, less of the former often means *more* of the latter. Modern microchip computers are an excellent example. Less expensive, more compact, and far more capable than their transistorized ancestors, these computers also use far less electricity.

There is nothing sacred in a perpetually climbing demand curve for *any* commodity. Yet for utility executives who have based their multi-billion-dollar construction programs on the inviolate truth of such a curve, doubting its validity is a bit like asking an archbishop to question the existence of God. It's unpleasant enough having to explain to irate ratepayers that, yes, rates are going up, and yes, it's largely to pay for an abandoned nuclear plant that will never produce

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a watt of power. People caught in such a position understandably would prefer to believe that somehow, someday, the dire shortage *will* come and that once ungrateful customers will suddenly recognize them for having been lonely prophets without honor.

This helps explain the ads, which are nothing more than an effort in the age-old game of self-fulfilling prophesy. And even if electricity demand does continue to rise, the industry has a second, even more terrifying, nightmare: a dramatic change in *how* consumers get their power.

For example, a single technological breakthrough in photovoltaic cells, which convert sunlight directly to electricity, could allow customers to bypass utilities entirely for most, if not all, of their power needs. Imagine what would happen if homeowners could purchase photovoltaic cells at their local Pay and Pak and install them on their roofs. Consolidated Edison might soon go the way of the iceman in the age of the refrigerator.

Public insulation

Richard Munson's *The Power Makers** is a sober and thoughtful analysis of the troubled electricity business. The book has the virtue of being more fair-minded than what some might expect from a former executive director of the Solar Lobby. Munson's style is not elegant, but that is a small complaint. He also makes his account more interesting by devoting considerable space to a lively history of the electric utility industry that sheds light on how the industry reached the current crisis.

One of the main characters in that saga was Samuel Insull, a onetime assistant to Thomas Edison, who began building a utility empire in Chicago in 1892. At that time, the industry was characterized by the kind of entrepreneurial spirit that would send a George Gilder into raptures. The result, however, was not efficiency, but waste and high prices. Most companies had their own generating stations, which seldom operated at full capacity and frequently offered different kinds of power. Appliances set to operate on 40 cycles of electric current became useless if the owner moved across the street to a house serviced by 126 cycles. Insull's lasting contribution to the industry was to propose a deal: in exchange for receiving a monopoly to provide electricity that would be more efficiently generated and thus cheaper, he would submit to public regulation. This model became so successful that by the mid-1920s, Insull ruled an empire of utilities that stretched across the Midwest.

In one of the most spectacular failures in the history of American capitalism, Insull's great edifice collapsed during the Depression. The folding of his enterprise became a major issue in the 1932 presidential campaign. Herbert Hoover embraced Insull's model of private ownership and public regulation. FDR championed the public ownership of utilities as he had during his years as governor of New York, and he often attacked Insull as the epitome of capitalism run amok.

Within a month of his inauguration, Roosevelt made good on his promise to create a Tennessee Valley Authority. Many—especially executives of private utilities—saw the TVA as the beginning of the end for private power. Large public power projects meant cheaper electricity: the TVA's rate was half that of private utilities in the region. And if the eventual goal was a unified, national power grid, it made sense to many that such a vast network be publicly regulated *and* publicly owned, much like the nation's highway system.

The private utility industry didn't give up without a fight. The distractions provided by World War II and the Cold War helped its cause, as did such obscure figures as George Vennard, an engineer-turned-advertising director for the electric utility industry. Through marketing surveys, Vennard learned that "government-owned" had a far more sinister ring than "public utility," and that "investor-owned" sounded a great deal more attractive than "private power." He wrote ads accordingly. One that appeared in the *Saturday Evening Post* showed a proud father and his two children. "Sure I used to think it wouldn't do any harm to have the government run the electric business," the man says, "but I've changed my mind. Because when government meddles too much in any business, you get socialism."

Of course, it was not advertising that saved private utilities from nationalization. Technological advances and economies of scale were conspiring to make electricity prices drop steadily. And while the industry promoted the "all-electric home" as the ultimate symbol of modern living, utility executives busied themselves with plans for the small army of new plants necessary to meet the demand they were helping to fuel.

In retrospect, it appears the industry was setting a trap for itself that would spring shut dur-

**The Power Makers: The Inside Story of America's Biggest Business and Its Struggle to Control Tomorrow's Electricity.* Richard Munson. *Rodale Press, $16.95.*

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ing the 1970s with the utilities' headlong rush into nuclear power. Engineering and safety problems led to unexpected delays, interest rates rose, and utilities became the target of critics who wanted to halt the building of new plants. For the first time in decades, adding new plants to the power grid did not cause rates to fall. Now rates had to increase—a lot. And as rates increased, demand decreased. With the utilities passing more and more costs to the consumer, demand declined further, forcing a new round of rate hikes. This vicious circle—far more than environmentalists, government regulators, or Three Mile Island—has brought America's nuclear industry to its knees and put electric utilities in difficult straits.

To his credit, Munson does not dwell on the oft-told tale of the nuclear industry's woes, nor does he think the obvious lesson is a return to public power. He wisely notes that the nation's most notorious nuclear debacle was caused by a public utility, the Washington Public Power Supply System, which has abandoned two plants, mothballed two more, and left behind $2.3 billion in defaulted bonds.

Munson instead attributes the industry's plight to its inflexibility. He also offers a sublime nugget of anthropological insight. For decades, Munson writes, the electric utility industry was considered the dumping ground for mediocre executives, "who traditionally came from the bottom third of their engineering class and were protected from competition by regulatory bureaucracies." These executives were scorned by others in the private sector, who saw them as "unimaginative laggards," incapable of hacking it anywhere else. Accordingly, many utility executives saw a multi-billion-dollar construction program as a chance to prove their prowess as true captains of industry.

Hindsight, of course, is easy. Unnecessary plants were built, and somehow will be paid for. The appropriate question is where the electric utility industry goes from here.

Munson identifies two major strategies for the future. The first is familiar: greater reliance on "alternative technology." There's nothing new here, though Munson does understand that not all alternative technologies make economic sense. He also demonstrates that there are alternative technologies that make *more* economic sense than large nuclear power plants, which typically take ten years to complete and are difficult to abandon if circumstances suddenly change. If electricity demand is volatile in an era of rising prices, Munson argues, it is far better to rely on conservation and large numbers of smaller generating facilities. Thus, if demand suddenly falls, the system has the flexibility to adapt.

Munson's second strategy is further deregulation of the electricity industry. He argues that the arrangement pioneered by Insull—a guaranteed market for a utility's power in exchange for publicly regulated rates—no longer makes sense. To encourage cheaper, more flexible alternatives to large generating plants, there should be more competition in the electricity marketplace.

As an example of the potential, Munson points to California, where "energy entrepreneurs" sell power to the state's utilities, using cogeneration (a process that uses fossil fuels to produce both heat and electricity); small dams; windmills; solar energy; and even the incineration of garbage. Under a little-known law enacted during the Carter administration, the Public Utilities Regulatory Policies Act (PURPA), state regulators determine the price private utilities in California and elsewhere must pay for such power. California also allows independent producers to sell directly to large industrial customers, bypassing utilities entirely. In a few years, Munson notes, such independent producers will provide 25 percent of the state's electric capacity.

Munson urges even more deregulation. California's lead in letting independent producers sell directly to large customers should be followed on a national scale, he says. PURPA should be expanded to require public projects, such as the TVA, to purchase independently produced power. Private utilities should also be forced to relinquish their stranglehold on their portions of the nation's power grid, which includes 600,000 miles of high-voltage transmission lines. If state regulators could require these utilities to "wheel" (transmit and distribute) other utilities' power, customers in high-rate areas could buy cheaper power from areas that happen to have surpluses.

No blind enthusiast for the free market, Munson recognizes that public regulation of utilities is still vital to address concerns such as safety, which private businesses are prone to ignore. If a private producer should go bankrupt—an occupational hazard in any deregulated market—consumers need assurance of minimum disruptions in service. There is also a danger, Munson notes, that the main beneficiaries of competition will be large, commercial customers, whose size gives them considerable clout in the marketplace. Experience in the recently deregulated telephone and airline industries illustrates this latter problem. Businessmen plying the Los Angeles-to-New York trade in both cases have fared far better than the Aunt Millies who want

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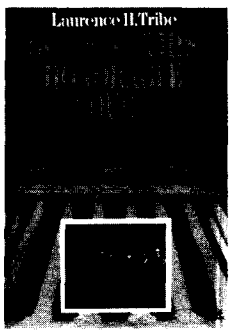
to visit their Sister Pearls in Dubuque or talk on the phone with their Cousin Selmas across town.

Indeed, Munson cites the AT&T breakup as an example of deregulation that came too fast and with too much disruption. He urges that deregulation of the electric utilities industry proceed more gradually and that it be confined largely to producing power. Responsibility for transmitting and distributing that power should remain in the hands of regulated utilities.

Needless to say, the partial deregulation of this industry has not been greeted with wild enthusiasm by utility executives, especially those struggling to peddle expensive, excess power. A more puzzling reluctance can be found among those whom one might expect to embrace deregulation with open arms: conservatives. The Reagan administration has not taken a clear stand on this question, doubtless realizing that further deregulation might well seal the fate of the moribund nuclear power industry.

The machinations of Senator Alfonse D'Amato are even more revealing of a certain double standard on the right. D'Amato recently convinced his Senate colleagues to approve a government bailout for the embattled Shoreham nuclear power plant on Long Island. The bailout, which came in the form of making the Long Island Light Company eligible for government-subsidized industrial development bonds, will cost the U.S. Treasury about $500 million through 1989. After succeeding in making the bailout part of the Deficit Reduction Act of 1984, D'Amato denounced the overall bill for its "total lack of spending curtailment."

The ironies are glaring. Here are Republicans, championing an industry that is "private" in name but whose club-footedness and inflexibility reminds one of Soviet agricultural commissars working on their next five-year plan. Meanwhile, the nation's windmill operators, solar energy lobbyists, cogeneration enthusiasts, and others urge economic deregulation, using the arguments of Adam Smith. There is also a sizable political opportunity here waiting to be exploited, just as FDR did a half-century ago with public power. By promising to provide society with a basic commodity for a lot less money, further deregulation will free up billions in investment capital that can be channeled into such worthy causes as research and development, starting new businesses, and rebuilding our dilapidated infrastructure. Spending $1.8 trillion on those other purposes would do a lot more for economic growth than pouring it into more large power plants—especially ones that may never be turned on. ■



CONSTITUTIONAL CONSTRUCTION
HOW TO BUILD A SUPREME COURT

by Paul M. Barrett

If the preliminary skirmishing is any indication, the impending battle for the Supreme Court will be the fiercest since FDR's second term court-packing controversy. The Reagan administration has taken the offensive with a rhetorical blitzkrieg led by Attorney General Edwin Meese III, who has vowed to eradicate the legacy of the liberal Warren Court. In highly unusual public speeches, two of the current Court's more liberal members have returned Meese's fire, angrily defending their view of the Constitution. With five of the present justices aged 76 or older, the stakes in this fight could be high indeed.

The clash takes place on a murky battlefield, where even veteran adversaries cannot distinguish with any precision between politics and legal principle. It's a swamp that neither liberals nor conservatives can drain of emotion and demagoguery. Meese has implied that his strategy—appointing justices who will strictly obey the "plain meaning" of the Constitution's words and

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the "original intention" of its authors—transcends politics in a search for absolute truth. But Justice William Brennan has responded that the administration's appeal is "little more than arrogance cloaked as humility"—dishonesty in no uncertain terms.

Into this morass strides Laurence H. Tribe, Harvard professor of law and renowned Supreme Court litigator. Tribe's 1978 treatise, *American Constitutional Law*, is probably the most influential contemporary reference book in the field. Now, in *God Save This Honorable Court*,* he challenges lawyers and non-lawyers alike to consider how the selection of Supreme Court justices ought to work. Tribe describes the slender volume as the product of years of research and reflection, but his urgent tone prompted Meese's spokesman, Terry Eastland, to suggest that the book be retitled, "God Save This Honorable Court From Ronald Reagan." Although the product is more advocacy than scholarship, Tribe offers some genuinely fresh ideas deserving attention from combatants on both sides. He candidly concedes that the appointment process is political in nature but reminds us of the Senate's constitutional responsibility to provide "advice and consent" on the president's nominations. This duty forbids either a rubber stamp or unthinking oppositon based only on partisan hostility. Instead, Tribe writes, the Senate must undertake a principled inquiry that includes investigation of both specific legal views and a larger sense of the Supreme Court's mission.

Reading Madison's mind

It is impossible to discuss the selection of Supreme Court justices without addressing the perennial debate over how the Constitution ought to be read. Tribe's endorsement of the mainstream liberal position is concise and convincing. He rejects the philosophy of "strict constructionism," which demands exclusive attention to—and literal interpretation of—the constitutional text. The blueprint for our political system provides only an ambiguous outline of the powers and limits of government. The terms themselves — "free speech," "unreasonable searches and seizures," "due process," "equal protection" — are so broad, that, in Tribe's words, they "not only invite but *compel* the Supreme Court to put meaning into the Constitution."

Similarly, the ideas and goals of men such as Madison and Jefferson offer important insight into the meaning of the Constitution and its application to modern controversies. But as Tribe argues, the "intent of the Framers" cannot serve as a binding principle on which to base Supreme Court decisions. History does not reveal in most cases definitive accounts of how the Framers would have resolved questions now facing the Court. "The term 'founding generation,'" Justice John Paul Stevens said in a recent speech, "describes a rather broad and diverse class. It included apostles of intolerance as well as tolerance, advocates of differing points of view in religion as well as politics." The Framers themselves may not have intended the Court to try to divine their intent. The Annals of Congress of 1796 report that in James Madison's opinion, however "venerable" the Constitution's authors, what they merely thought or even said "could never be regarded as the oracular guide in expounding the Constitution."

The relevant conclusion Tribe draws from his dismissal of absolutist arguments such as Meese's is that justices should not be selected merely on the basis of their pledging loyalty to strict constructionism or original intent. In this regard Tribe agrees with President Reagan, who, unlike Meese, has honestly expressed his desire to appoint justices who share his political outlook. Presidents are entitled to reshape the Court, Tribe writes, and they have often succeeded in doing so. Tribe quickly adds, however, that the Senate possesses the power to check this presidential authority and has exercised that power more frequently than we commonly assume. In rejecting nearly one out of five candidates, the Senate has opposed a higher proportion of nominees for the Supreme Court than for any other national office.

Back to the 19th century

How, then, ought the Senate go about its job of providing advice and consent? Tribe offers as initial topics for review a nominee's intellect, integrity, and legal skill. For all of the Supreme Court's grandeur, Tribe points out, presidents have nominated an alarming number of cronies and incompetents over the years, only some of whom the Senate has bothered to oppose. Tribe applauds the 1970 rejection of Richard Nixon's nominee, G. Harrold Carswell, not only because of Carswell's racist views but also because he was a poor jurist, having compiled an almost unequaled record for being reversed by higher courts.

Shocking as it may be to some liberals, Tribe

**God Save This Honorable Court.* Laurence H. Tribe. *Random House, $17.95.*

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Most justices will remain on the bench long after their sponsor has left the White House and will have to grapple with problems unanticipated at the time of their selection. Thus, a person nominated primarily because he would carry out the president's wishes on a narrow range of issues does not belong on the Court.

argues that in addition to competence and character, the Senate must examine a nominee's substantive views on law, as well as his philosophy of how a judge makes decisions. By means of such an inquiry, the Judiciary Committee and each senator will be able to establish broadly defined "outer limits" of acceptable judicial attitudes. This approach need not result in Democrats automatically voting against Republicans, liberals against conservatives. A wide range of constitutional opinion "should constitute the field within which the political branches necessarily maneuver," Tribe writes. But at the extremes, a majority of senators should be able to agree that a nominee is unfit.

Although each senator must vote according to his own guidelines, Tribe offers some examples highly relevant to the current debate over the Court. One issue the Senate should explore is whether a nominee appreciates the inherent anti-majoritarian spirit of the Bill of Rights and, more specifically, whether those amendments ought to apply to state and local governments. As originally framed, the Bill of Rights covered only federal officials; the plain meaning of the provisions makes that very clear. But in the 1920s, the Supreme Court began applying the first ten amendments to state and local authorites under a doctrine known as "incorporation." Over the years, justices of all political stripes have affirmed that post-Civil War enactments, including the Fourteenth Amendment and other civil rights laws, were intended to guarantee "basic federal rights against state power." Yet Attorney General Meese has invoked strict constructionism and original intent in urging that new justices free the states from the Bill of Rights. In a recent speech to the American Bar Association, Meese declared, "Nowhere else has the principle of federalism been dealt so politically violent and constitutionally suspect a blow as by the theory of incorporation." Meese would deny the Supreme Court a constitutional basis for prohibiting state and local officials from regulating the press, supporting a particular religion, coercing confessions, or suppressing books, all of which have been attempted by such officials and ruled unconstitutional under the incorporation doctrine. Ideally, an overwhelming Senate majority would forget party lines to defeat a candidate who would entertain the notion of reviving a nineteenth century view of federalism.

Equally unsuitable for the Court, Tribe writes, would be a nominee who favored overturning the landmark legislative apportionment cases and who denounced any role at all for the federal judiciary in preserving the principle of "one person, one vote." A Reaganite strict constructionist might well throw out those decisions because the words of the Fourteenth Amendment do not specifically refer to suffrage. Conservative legal historian Raoul Berger, a favorite among administration officials, wrote recently in *The Washington Post* that the amendment prescribes only that if a state excludes male inhabitants from voting, its representation in the House of Representatives will be reduced proportionately. "The limited sanction," Berger argued, "bars an inference that discrimination was prohibited altogether. . . . [T]he framers unmistakabl[y] inten[ded] to exclude suffrage from federal control." Such mechanical justification for overturning Supreme Court opinions that most of us view as fundamental to our understanding of the Constitution is certainly grounds for rejection of a nominee.

Tribe wisely explains that his approach to judicial selection would not rule out extremists only on the right. A communist who interprets the principle of equal protection under the law to require the abolition of private property and contract would be as unacceptable as any foe of incorporation. Likewise, the Senate would have to reject a candidate so determined to uphold a woman's right to have an abortion or to exclude prayer from public schools that he would ignore duly adopted constitutional amendments designed to reverse Supreme Court decisions on these matters. The Constitution clearly subordinates the Supreme Court's authority to the amendment power held by the Congress and voters assembled in state conventions.

Senators should be able to agree that any candidate nominated only because of his views on a handful of controversial issues is unfit to serve on the Court. "Knee-jerk attitudes, however

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sincerely held," Tribe writes, "are profoundly antithetical to the judicial temperament." Most justices will remain on the bench long after their sponsor has left the White House and will have to grapple with problems unanticipated at the time of their selection. Thus, a person nominated primarily because he would carry out the president's wishes on a narrow range of issues does not belong on the Court. Conversely, litmus tests, whether applied by conservative or liberal senators, are not an acceptable part of the appointment process.

A nominee must be prepared to explain not only his solutions to constitutional controversies but his philosophy as to how he would attack his work. For example, senators are obliged to probe a candidate's views on how to use precedent. In deciding constitutional cases, the Supreme Court, like any other court, must weigh innovation against the collected wisdom of previous decisions. Respect for precedent assures gradual development of constitutional principles and preserves public faith in the stability and legitimacy of the Court. Tribe argues that a nominee who would "feel no obligation at all to link present decisions to those that have already become part of our history" must be rejected. Traditionally, this warning would be viewed as one applying to overly "activist" liberal jurists. Today it is equally relevant in regard to conservatives who would throw out decisions such as *Roe v. Wade* without explaining why the reasoning of those opinions is faulty.

Burger Court activists

One of the key strengths of Tribe's book is that it reminds us of the deceptiveness of delicate distinctions between judicial "activism" and "restraint." According to conventional wisdom, the liberal Warren Court was activist—and indeed it did pronounce new interpretations of the Bill of Rights. But the "conservative" Burger Court has demonstrated little restraint in decisions restricting the legislative power of Congress and enlarging the authority of the executive. In the 1983 case of *Immigration & Naturalization Service v. Chadha*, the Court struck down as a violation of separation of powers the "legislative veto," a mechanism with which Congress had delegated authority to the executive but reserved the option of vetoing particular exercises of that authority. The decision invalidated more federal statutory provisions than the Supreme Court had struck down in the preceding two centuries.

Tribe makes a rhetorical error in insisting that all jurists are activists, differing only "in the nature and direction of their activism." This phrasing may conjure up the image of federal judges runnning amok, without regard to practical and constitutional limits on their authority. People from all across the political spectrum can agree on the importance of caution and moderation on the part of unelected judges in a democracy. What Tribe is really driving at is that rather than focusing on simple-minded labels, the Senate should explore whether a nominee has a sense of what long-term direction the Supreme Court should take. Right or wrong, the Warren Court set a clear course for itself, one that involved considerable legal innovation. In sharp contrast, the Burger Court has employed a more pragmatic jurisprudence, one Tribe describes as "seemingly not guided by a substantive vision of a humane future but by a desire to moderate social conflict through compromise and accommodation." One result of the Burger Court's approach has been a tendency to wobble between conflicting constitutional positions. Last term, for example, the Court overruled one of its *own* major decisions, a 1976 case pertaining to federal-state relations. Tribe would favor a revival of the spirit of the Warren era, and he contends that nominees should be equally frank in their critiques of the Court's collective philosophy.

Tribe's most quixotic proposal is that each senator should ask himself how the confirmation of a particular justice would affect the overall balance of the Court. He praises the pursuit of a "healthy mix of competing views" on the bench, urging the Senate to prevent the Court from becoming dangerously imbalanced to either the right or the left. As Tribe concedes, however, the president's natural desire to influence the Court makes ideally "balanced" nominations unlikely, while senators risk paralysis of the appointment process if they hold out for nominees they consider perfect. The Senate should also observe what we might call the Carswell Rule, which warns that presidents may respond to rejection of an adequate candidate with an abomination. In 1969 the Senate turned down Richard Nixon's nomination of southerner Clement Haynesworth. Several senators raised questions about a case in which Haynesworth had participated as a federal appellate judge even though he had a financial interest in one of the companies involved. Also opposed by labor and civil rights groups, Haynesworth nevertheless was, in Tribe's words, "a judge of some distinction." In retrospect, even liberals such as Tribe agree that his "integrity may in fact have been unfairly

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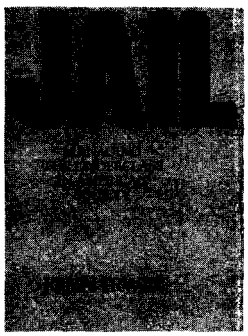
denigrated" by Democrats eager to embarrass Nixon. The result was the nomination of Carswell, a legal lightweight and a bigot to boot.

Preachers on either side

Sadly, Tribe's impressive argument contains a major flaw. Like theorists in so many fields, he constructs a sound procedural approach to complex questions and then assumes that his are the only legitimate answers. Having contended that his outer limits provide plenty of room for disagreement on particular topics of substantive law without requiring rejection of a nominee, Tribe changes the rules for the civil liberties issues dearest to his heart: free speech, civil rights, and sex discrimination, among others.

In each of these areas, Tribe holds views that can only be described as extreme. Nominees who do not share his expansive view of "symbolic expression" protected by the First Amendment "could well propel the Court over the cliff on which it is precariously perched." Tribe has no patience for anyone who is less than wholehearted in his support of affirmative action; hesitation over problems such as reverse discrimination would put constitutional liberties "in serious jeopardy. . ." and so on. Surely these are topics well within the realm where reasonable people differ and where the Supreme Court must continue to move cautiously. Tribe's alarmist preaching is no different from that of his opponents on the right who predict the decline of Western civilization unless children are permitted to pray in homeroom. In the end, the professor from Harvard only confirms how difficult it is to take up arms on the constitutional battlefield and still keep a cool head. ■



CRUEL AND USUAL PRETRIAL PUNISHMENT IN JAIL

by Charles Murray

John Irwin's thesis is that American society uses jails to control and segregate the "rabble," a subset of the poor and disadvantaged. Besides being destitute, the rabble are detached from the conventional social networks and behave in ways that the middle class finds objectionable or threatening. Members of the rabble are jailed not so much because of the seriousness of the crimes they commit as for the offensiveness of their behavior to middle-class sensibilities. Citing the work of Frances Fox Piven and Richard Cloward, authors of *Regulating the Poor*, Irwin tells us that "the contemporary jail is a subsidiary to the welfare organizations" that control the poor and defuse their threat to the status quo.

Knowing this and nothing else, what might you expect the conclusions to be? Right. The most serious crimes (white-collar crimes, industrial pollution) are actually committed by "reputable" people, and the police should be concentrating on them. We should "learn to tolerate a large number of the rabble." The genuinely troublesome behavior of the rabble should be controlled by informal, extralegal measures "that will foster a new sense of community among strangers." And, of course: "In the long run, we should work to alter our basic values. Excessive materialism and individualism. . . help maintain a radically unequal distribution of wealth, opportunity and prestige, which, in turn, produces high rates of crime and many forms of repulsive public deviance."

The good news is that the rhetoric begins only seven pages before the end of the book. The rest of *The Jail** is terrific.

John Irwin adds to the debate over the

Charles Murray is a senior research fellow at the Manhattan Institute for Policy Research and author of Losing Ground: American Social Policy 1950-1980.

**The Jail: Managing the Underclass in American Society.* John Irwin. *University of California, $16.95.*

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The typical penitentiary provides a much more humane environment than the typical jail. This should be unacceptable to advocates of more jails, as it is to advocates of fewer ones. It is fundamentally wrong to punish people before they have been convicted, especially when the punishment takes as many perverse forms as it does.

underclass something it badly needs: good debate about what the world of the underclass looks like from ground level. Irwin examines the corner of that world represented by the municipal and county jail, and he's been there. He was a prisoner in eight such jails for periods of up to 120 days and graduated from a five-year term in Soledad State Prison before getting his Ph.D. in sociology at Berkeley.

This sounds like a setup for a memoir masquerading as social science, but Irwin scrupulously avoids trading on his credentials. He occasionally refers to his own experience when it is especially apropos, but the core of *The Jail* is based on extensive interviews with a randomly selected sample of 200 people in the San Francisco jail system. The value of Irwin's background is that it makes him an extremely credible interpreter. The discussion has none of the geewhiz quality of accounts by observers newly encountering the underclass and not a scrap of condescension toward the people he describes. Nor does Irwin try to cast the police as villains. His prose is workmanlike and all the more persuasive for his refusal to sensationalize naturally dramatic material. That's why the last seven pages do not really matter. Irwin's descriptive writing inspires confidence that the author knows what he is talking about and trust that he is trying hard to be fair.

The Jail is not a quantitative study. Irwin apparently did not approach his subjects with multiple-choice questionnaire in hand but rather covered a predetermined set of topics in open-ended conversation. This procedure is a blessing, yielding nuance and realism that can be gotten no other way. Its main defect is that it prevents Irwin from establishing a solid case for the jail inmate as a special type of person—part of the rabble—arrested more for being part of this group than for being a criminal. But to treat *The Jail* as "proof" of anything is to miss its value. I note for the record that I have many quarrels with Irwin's analysis, but they are no excuse for ignoring the book's strong points. Nor need one buy into Irwin's politics to come away from *The Jail* with some bothersome questions.

For example, what purpose is a jail supposed to serve? One answer is that the jail is a place to keep people who are awaiting trial and would be a danger to the community or unlikely to appear in court if they were released. Many argue, I among them, that the system puts far too *few* offenders in jail and urge that more jails be built to protect the safety of poor people who now live under an intolerable threat of crime. Irwin describes the ways in which the jail is intolerably punishing as well. The typical penitentiary, he points out, provides a much more humane environment than the typical jail. This should be unacceptable to advocates of more jails, as it is to advocates of fewer ones. It is fundamentally wrong to punish people before they have been convicted (even though everyone in his sample was patently guilty—Irwin speaking, not Meese), and especially when the punishment takes as many perverse forms as it does. Irwin is refreshingly unexcited about the notorious perversities (jail rape was a significant problem in the late 1960s, he writes, but not now), and at the same time manages to convey the pains of the homelier ones. Read, for example, his description of trying to get your car back when you leave jail, or what it means to get started when everything you own has disappeared while you were in jail. If one favors more jails, what else must one favor to make that position conscionable?

I wasn't converted to Irwin's way of thinking. Indeed, *The Jail* inadvertently provides considerable evidence that the authorities *should* distinguish the rabble from reputable people and keep the rabble in jail while sending the reputable people home. But very few of us who talk about the crime problem have much first-hand knowledge of what it is like down in the bowels of the system. John Irwin does, and he lets us in on it in dispassionate and illuminating detail. ■

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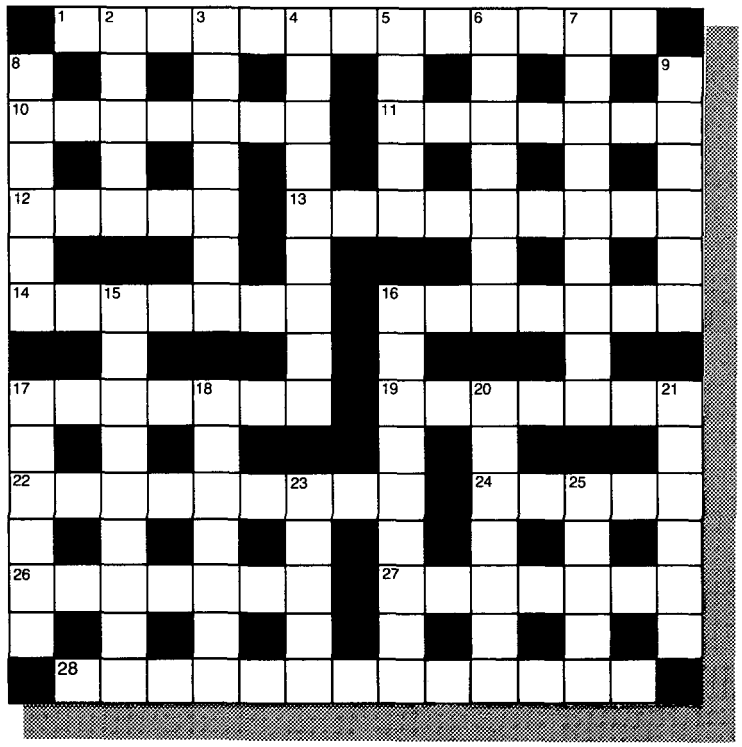
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g., (2, 3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.



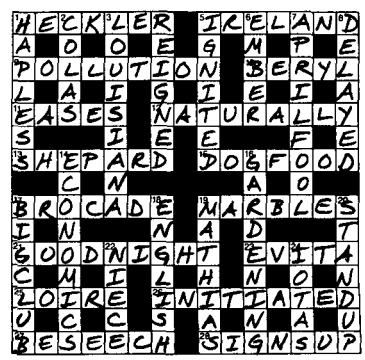
ACROSS

1. Awful device helped clean up one war. (7, 6)
10. Special grit not turning into softness. (7)
11. Atheists set up lodges before September 1. (7)
12. Rice dish served in secondary pupil auditorium. (5)
13. Cured acne under strength. (9)
14. Put down about paper. (7)
16. Disposed of game and set. (7)
17. Hunter is more positive about firm. (7)
19. Formed decal to display. (7)
22. Excesses do serve so oddly. (9)
24. Forced loner to join in. (5)
26. Make it clear constitutional provision. (7)
27. Moves out in order to save cat. (7)
28. Abortion foe share is arms control issue. (13)

DOWN

2. Before pre- '49 nut turned around. (5)
3. Somehow reuse 49 for relaxation. (7)
4. Messy ogre's rags may start war. (9)
5. Carried on with joker Asner. (5)
6. Conjunction element in fireplace. (7)
7. Stay on top of chess piece, we hear. (9)
8. Correct use of rope in Puerto Rico. (6)
9. Badly stoned in Belgium. (6)
15. Activist upsets troopers about tea. (9)
16. Slum lover carefully reflects. (5, 4)
17. Battle cry lags on confusion. (6)
18. Cad and liar somehow set right. (7)
20. Oarsmen slashed in the head? (4, 3)
21. Turn over silted bar. (6)
23. Book collection in the flesh, perhaps. (5)
25. Proportion in on speech. (5)

Answers to last month's puzzle:



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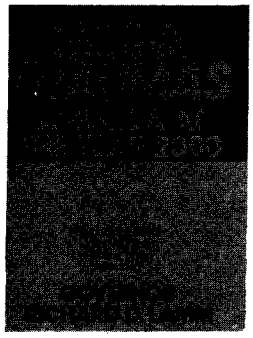

NEOLIBERALISM WITHOUT A HEART

by Nicholas Lemann

Politicians almost never allow us a glimpse into what's really going on in their minds. So when Dick Lamm, Colorado's "Governor Gloom," does, it's hard to resist the urge to perform armchair psychoanalyis. This book* is about the major problems facing the United States today, but it is elaborately set up as a work of quasi-fiction, taking place 15 years in the future—two different futures, actually, featuring two different presidents. For the first two-thirds of the book, the president is Susan J. Hesperus (elected 1996). The blizzard of memos she requests from her cabinet officers gives Lamm a chance to lay out in full the predictions that earned him his nickname. Then, in the last third, Lamm invents an alternative future, without Hesperus but with a Maine senator named Martin Morgenstern, who is elected president in 1992 and heroically averts all the crises that earlier in the book (but later chronologically—it's confusing) faced Hesperus. A history of the Morgenstern administration is Lamm's way of giving his solutions to all the woes he has described. Hesperus, the first woman president, never appears onstage, though it's worth noting that her name means "evening star," as in Lamm's idea that it's evening in America. Morgenstern, on the other hand, is praised lavishly in a way that suggests it's how Lamm sees himself: "Leadership is a matter of asking the big questions...what he was offering was a very sophisticated set of assumptions...his intense and eloquent style could move many people, even when the message was like Cassandra's."

Also, though Lamm doesn't say so, Morgenstern is, judging by his name, the first Jewish president; Lamm himself is a Unitarian. What can this mean? Either a) that Lamm, knowing where the political money is for a skeptical-of-unions Democrat, is thinking ahead to his next campaign or b) that, while Lamm isn't Jewish, his fantasy-self is, probably because he thinks of Jewishness as meaning super-braininess. What he's most vain about is his tough-minded intelligence.

Indeed, Lamm is what liberals spent last year accusing Gary Hart and neoliberalism of being —very smart but unsentimentally analytical and prone to use the phrase "new ideas" as code for an agenda of dismantling the social welfare state. Some of Lamm's causes will be familiar to readers of this magazine: the overgenerosity of federal pensions and entitlement programs, the poor quality of teaching in public schools, the need to play dirty with Japan on trade, the evils of doctors and lawyers. Within the self-imposed constraints of the form he has chosen, he argues for them eloquently (though there are too many Bartlett's-style quotes, including, inevitably, one from Edward Gibbon).

He is at his very best on the issue that rocketed him to fame a couple of years ago: our overcommitment of resources to prolonging the lives of the terminally ill. The rate of increase in the percentage of the Gross National Product going to health care is amazing, and, though some of this money goes to rich doctors and the rich lawyers who sue them for malpractice, the lion's share is for the noble purpose of providing high-quality medical care for everybody. We are bored by preventive medicine but captivated by the technological razzle-dazzle and soap-opera drama of procedures such as artificial heart implantations, which prolong life for a short time at tremendous expense. (President Reagan, that enemy of government spending, calls up artificial heart patients and proclaims them national heroes.) Lamm says Medicare alone spent $15 billion last year on people in their last six months of life.

**Megatraumas: America at the Year 2000.* Governor Richard D. Lamm. *Houghton Mifflin, $16.95.*

Nicholas Lemann is national correspondent for the Atlantic *and a contributing editor of* The Washington Monthly.

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Even under a completely socialized system, medical advances would make carrying out the Hippocratic Oath more and more expensive. If, after all possible costs have been controlled and all possible preventive measures taken, health care still has to be rationed, better to cut out the terminally ill than the poor. It takes courage for Lamm to say so.

Feed trees, not people

Lamm's thinking on other issues is less original, but he does bring a strong intellect to the issues he addresses. He does not share Jimmy Carter's flaw of being unable to weave a thousand bright threads into a tapestry. His approach to issues is so orderly, in fact, that it almost takes the form of a catechism. Step One is noticing a drain on resources—excessive military pensions, interest on the debt, and the like—which are usually caused by the short time horizon and addiction to the free lunch that plague every democratic state; we are, as Lamm likes to put it, depleting capital. Step Two is "reality therapy," in which the harsh, unpleasant truths about the situation are pointed out, often through the rhetorical technique of projecting alarming trend lines far enough into the future until they become disasters. And step three is "triage": ruthlessly getting rid of the unnecessary claims on resources to preserve the overall health of the nation.

Lamm's views are exactly opposite from the insistent rosiness of Reagan, Jack Kemp, and George Gilder. If anything, Lamm errs on the side of being the boy who cries wolf, building up every concern into a major crisis. The solutions to his problems, when he reveals them, are surprisingly incremental. To say that only under circumstances of a broad-scale national collapse would they be considered by Congress is a stretcher.

So what is Lamm, politically? If, in *The Washington Monthly*'s corner of neoliberalism, the central concern, from which all the specifics flow, is a desire for the United States to function as a community in the noblest and freest sense of that word, then Lamm isn't in that corner. He's part Paul Ehrlich-style environmentalist, terrified about overpopulation and favoring tight immigration controls; part Club of Rome-style limits-to-growth advocate; and part Western-states mugwump, extremely suspicious of the illogical, inefficient component of politics. He is for growth, but the notion of resource depletion so dominates his mind that he can't really conceive of our society generating more jobs and prosperity as it consumes. Instead he's drawn to canards about the disappearance of the middle class.

Realizing that he will be accused of being too coolly rational and lacking compassion, he includes a sermon on "The Sin of Softheartedness," but this backfires spectacularly. Under the banner of "reality theology and triage ethics," he comes out against sending aid to famine victims in Ethiopia on, believe it or not, religious grounds. Because of limited food supplies, ultimately it's them or us, and "the church must eventually bless what people do to survive." There is something fascinating about a high officeholder who is willing to publish the recommendation "that we let God's judgment take place in much of the Third World," but when, a few pages later, he becomes genuinely emotional over not people but forests ("We are the ones who must speak for the trees!"), it's creepy.

Lamm does have the courage of his coldblooded convictions. He completely lacks the paralytic fear of offending anyone—the main problem in national politics right now. In general, there seems to be more courage and less interest-group domination in state governments than in Washington. James Blanchard of Michigan balanced his budget; Bill Clinton of Arkansas made teachers take competency tests; Mark White of Texas raised taxes to pay for better education; and the list goes on. Ten or 15 years ago it was possible to believe that pure ignorance of everything except rhetoric kept members of Congress from discussing issues like pensions, tax loopholes, and industrial decline. Today, problems in the resource-depletion category are so obvious (especially the federal deficit) that it can't be the reason; in fact there's a good deal of sub rosa agreement accumulating for ideas like Lamm's. Old-line liberals who argue that there's no "constituency" to support a politician who will talk about, say, the problems of Social Security, have a lot of governors' races to explain. There seems to be a greater willingness among voters to face up to our most difficult problems than Washington thinks.

Surely a large part of the explanation for the urge among national politicians to deny reality is the spectacular success of Reagan, who promised that every day would be like the Fourth of July and that we would grow out of the deficit. Politicians never fail to notice election results, and they saw how this pitch did at the polls.

In fairness to Reagan and the rest of the reality-deniers, state and national politics are different. A gubernatorial candidate can run, win, and govern as a pure pragmatist, but a presidential

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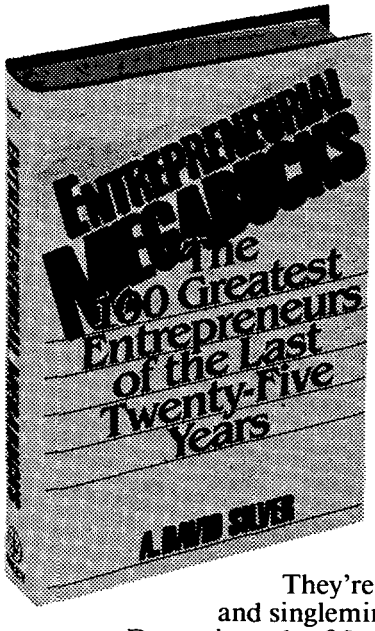
candidate has to present a sweeping vision; we expect that of presidents, and rightly so. The crucial next step for Democratic presidential candidates is to figure out how to talk seriously about what we need to do in the context of a vision that's appealing. Gary Hart came across as a walking stack of position papers; Lamm comes with both words and music, but the music, alas, is triage.

There's more wrong with triage-based politics than unpalatability. Often in our history it has seemed to many that our society is a fixed pie, that the chief danger to it is overeating, and that the solution is to cut back on immigration, social services, foreign aid, and the use of resources. Lamm is squarely in this tradition, which is why immigrants scare him and the political uses of compassion make him suspicious. But at every point so far, what happened instead was that engagement with, rather than excision of, problems led to their solution. (By the way, Lamm admiringly calls President Morgenstern a "surgeon.") We found new resources. Technological advances created new jobs. Social programs were made to work. The pie expanded. Deep faith in a fluid democracy, not deep fear of its excesses, should restore the passion to look at our problem head on. ■

$94 BILLION*

(*Net worth, conservatively)



$94 billion, give or take a few hundred million. That's the combined net worth of the companies started by the men and women of ENTREPRENEURIAL MEGABUCKS. Not a bad chunk of change. But wait. It gets better.

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c) Refrain from succumbing to *hubris* (Thank you, Ray Kroc, Rose Blumkin, and Soichiro Honda).

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TIDBITS AND OUTRAGES

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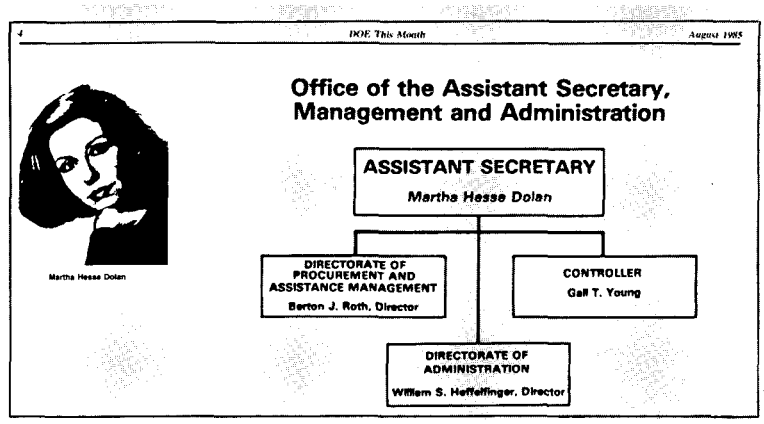


AND IT'S A BUMMER NOT WINNING THE NOBEL PEACE PRIZE

Bob Geldof, the British rock singer who organized the "Live Aid" concerts for African famine victims, says he's getting out of fundraising and back into music. Explains Geldof: "Compassion fatigue has very much set in."

◆

'NO FERDIE, WE THINK DIRECT MAIL IS BETTER THAN GOING ON DONAHUE'

The Washington Post reports that in response to mounting criticism over his human rights policies, Philippine President Ferdinand Marcos has complained that he has "an image problem" in the United States and perhaps he should hire a public relations firm to remedy the situation.

●

NOT TO WORRY—IT'S ALL TAX DEDUCTIBLE

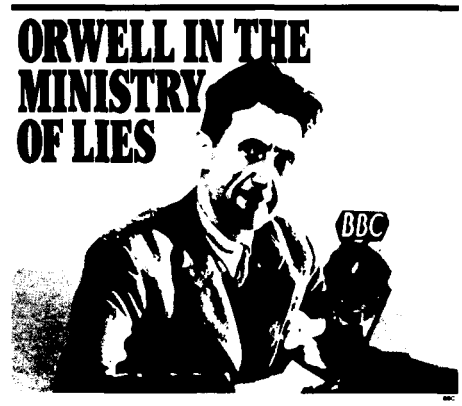
The *Chicago Tribune* reports that the Pope's visits to 50 countries since 1978 "have left many dioceses with empty coffers, and others are struggling to repay loans taken out to cover the expenses of a papal sojourn." The worshippers of the Italian diocese of Udine, renowned for their thrift, refused to invite the pontiff to visit them.

◆

A PREVIEW OF LIFE UNDER GRAMM-RUDMAN

Headline from *The Brown County* (Indiana) *Democrat*: "County Hasn't Money to Spend on Toilet Paper."

FROM THE MAN WHO BROUGHT YOU "AMERICAN GRAFITTI"



George Orwell spent the early years of World War II serving an embattled Britain as a radio producer and propagandist. Until the contents of this book were discovered in the vaults of the BBC, everyone—readers, critics, biographers—believed that for more than two years of his life George Orwell wrote nothing whatsoever. They were dramatically and emphatically wrong.

The never-before-published material in this extraordinary new book lay forgotten in BBC files until W.J. West, in a fascinating piece of literary detective work, unearthed a treasure-trove of Orwelliana— hundreds of essays, letters, radio talks and scripts. They reveal not only a stunning portrayal of war-torn England but also a unique, unexpected view of the genesis of the great works that followed: *Animal House*, here in embryo as a radio adaptation of an Italian fable; and *1984*, which grew out of Orwell's own experience with wartime censorship by Great Britain's Ministry of Information (known as "Miniform" and responsible for censoring BBC broadcasts). Here too is a wealth of correspondence with T.S. Eliot, E.M. Forster, Stephen Spender and many others, as well as essays which present the full range of his interests, from Shakespeare to Swift to sabotage.

Anyone who has ever read Orwell will find his *Lost Writings* fascinating—and a crucial insight into the formative years of one of the most important writers of this century.

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POLITICAL BOOKNOTES

Toward a Safe and Sane Halloween and Other Tales of Suburbia. William Geist. *Times Books, $16.95.* The rise of suburbia since the end of World War II has contributed to the decline of daily journalism. Newspapers are easy to distribute inside a city, but difficult to get to far-flung suburban subscribers. This is particularly true for afternoon papers, which must fight commuter traffic jams. To reach the swelling ranks of suburban subscribers, newspapers have had to build satellite printing plants and hire more trucks, driving up costs. The result has been a hastening of the trend toward more and more one-newspaper towns and the proliferation of bland suburban newspapers and inane local TV news shows. Meanwhile, even the best of big-city newspapers that manage to survive find themselves pandering to upscale, largely suburban advertisers. Leading the pack in shamelessness is *The New York Times*, which has in recent years boosted its flagging revenues with such embarrassments as the "Home" section, the "Living" section, and tony supplements like "The Sophisticated Traveller."

William Geist is one of the few good things to come out of journalism's new orientation toward the suburbs. In 1981, perhaps in penance for its sins, the *Times* hired Geist away from the *Chicago Tribune*, where he'd been writing about the suburbs, yes—but in a lively, humorous, and often illuminating way. Wandering through this mysterious world of shopping malls, Tupperware parties, plastic flamingos, and Weber grills, Geist finds the suburbs to be something more than an advertising base. They're a story.

Those of us who grew up in the suburbs have long suspected that they weren't quite as barren as the press made them out to be. Hadn't novelists like John Updike, John Cheever, and Philip Roth successfully mined them? Even the most satirical novels set in suburbia revealed that important things were happening there; for example, in *Goodbye, Columbus* Roth dramatized with equal measures of pain and hilarity the agonies of assimilation that plagued ambitious young Jews in New Jersey.

But in 1972, when Geist graduated from journalism school, who wanted to be stuck out in the suburbs? As Geist relates in his introduction, he was "eager to put public officials—each and every one—behind bars." Instead, he found himself working at the *Suburban Trib*, a tabloid insert of the *Chicago Tribune*. Geist found little consolation in the knowledge that Bob Woodward, who'd grown up in the Chicago suburbs, had been turned down by the *Suburban Trib* before going on to glory at *The Washington Post*: "If they had hired him, perhaps his slot at *The Washington Post* would not have been filled when I applied there. As he and Carl were becoming the most rich and famous journalists in the world, I was attending suburban board meetings."

In time, Geist came to see the anthropological possibilities in his suburban beat and persuaded the *Tribune* to give him a column. This collection, drawn from both the *Tribune* and the *Times*, is the fruit of Geist's years observing the habits of suburbanites—who, Geist reminds us, make up more than one-third of the population.

Geist is full of wonderful facts. A Cornell University study estimated that $200 million is annually spent on Long Island lawns. Gypsy moths were brought to New York by a French naturalist in 1869, escaped from his lab, and bred out of control because none of their natural predators lived there. George Stephen, an employee in the Weber Brothers Metal Works in suburban Chicago, invented the first Weber grill in 1951. More than 2,635,000,000 copies of *National Geographic* have been published ("and casual empiricism suggests that none have been thrown away").

Like Tom Wolfe, Geist has a gift for zeroing in on the familiar but unexamined aspects of everyday life and showing why they're important. For example, in a column about the decline of the front porch, which stopped being standard in American architecture about 50 years ago, Geist observes that instead of spending their leisure time

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chatting with neighbors and taking in the action on the street, today's suburbanites are more apt to invite people with similar demographic profiles a week ahead of time to sit in a fenced-in backyard. A story about architecture thus becomes a story about the decline of community values. In another piece, about an ordinance in River Edge, New Jersey against parking vehicles with commercial license plates in residential driveways, a truck driver complains that he's being treated like a "second-class citizen." The mayor answers candidly, "The ordinance may be snobbery to a certain extent, but I think the trucks do depreciate property values."

Geist buffs will be disappointed to find that his two most famous stories aren't here. One was about a Korean grocer who created a furor by proposing to sell vegetables in a store on fashionable Park Avenue. (A resident said Belgian chocolates would be all right but no vegetables.) The other exposed a New York City effort to put decals on the windows of abandoned buildings in the Bronx in order to create the illusion that families lived there. Both the Korean grocer and the "Potemkin village" story were drawn from Geist's new beat, which is New York City. (He now writes the "About New York" column for the *Times*.) New York's gain is suburbia's loss.

—Timothy Noah

The Great American Banking Snafu. Mary L. King. *Lexington, $16.95.* Imagine a football team with five head coaches and 50 assistants, "all with different game plans and different regulations, which confused the field officials who often were overruled by officials sitting on the bench. Also, while one coach would be calling a time-out, another would be telling the team to go for a field goal." This is Mary King's harrowing vision of the American banking system.

King, a professor of marketing and management, blames misplaced, misguided regulation for most of our banking problems in this often-colorful survey of American banking history. While bankers themselves have contributed to the confusion, King accuses politicians of making the worst blunders. They have overregulated interstate banking and squelched healthy competition among different kinds of financial institutions, says King, while letting slide the risky investments that underlie the recent rash of bank failures.

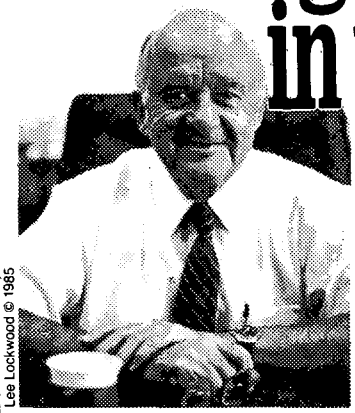
Her prescriptions are sweeping: uniform national standards and regulation for financial institutions, legalized interstate banking, FDIC protection for both state and federal banks, disclosure of all banking operations, and incentives to increase cooperation among banks.

As a stark contrast to our own sorry mess is the inspiring example of Sweden's banking system, says King. It isn't clear, however, why she chose the Swedes as models; she

"Should infuriate–and delight–readers of all political persuasions."*

"The witty and acerbic essayist Bernard J. O'Keefe" (Orville Schell, *New York Times Book Review*) presents an onslaught of irreverent observations and challenges of dogma, hypocrisy and conventional wisdom. From judges (the next Supreme Court appointee should not be a lawyer) to nuclear power (it's dead in the U.S.) to the red tape of governmental projects (will this cause the snail darter and the furbish lousewort to become endangered species?), O'Keefe warns us that it's time we stopped being our own worst enemy, constantly

Shooting Ourselves in the Foot



Bernard J. O'Keefe

Author of *Nuclear Hostages*

"Hard-hitting, well-reasoned and readable."
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**Kirkus Reviews*

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concedes that much of their success is due to "unintended consequences prevail[ing] over planning," as well as a political system lacking our fractious tradition of federalism. Despite this somewhat forced comparison, King's book is a thorough and lively overview of American banking.

—*David W. Stowe*

Employee Ownership in America: The Equity Solution. Corey Rosen, Katherine J. Klein, Karen M. Young. *Lexington, $19.95.* "The problem with capitalism is that there aren't enough capitalists," Senator Russell Long once said. The shortage, say the authors of *Employee Ownership in America*, reflects only a lack of opportunity. Given the chance to own at least part of the company for which they work, most employees say the best part of helping to run the show is the chance to make more money.

This finding contradicts the prevailing theory that participation in decision-making and improving the quality of work life are the keys to employee satisfaction and commitment. But let's face it, a boring job, no matter how decorated with "input," is still a boring job, and workers understandably want a little more tangible compensation for the tedium. Nonetheless, the authors are quick to add that without worker participation in management, businesses will not achieve the gains in productivity, growth, and profitability that distinguish the most successful employee-owned companies.

Those companies' stories are often remarkable. For example, employees own one-third of Lowe's Companies, which has grown in only two decades to become the country's largest retail and wholesale hardware chain. Sales per employee are two to three times those of its competitors. A number of workers have retired with stock valued in six figures. W. L. Gore and Associates, maker of the fabric "Gore-Tex," has no management hierarchy but is growing at 25 percent per year. The lure of that kind of success has not, however, been enough to overcome the reluctance of many companies to share power with their workers. Only when Congress (and some states) made employee-ownership plans more attractive by offering tax advantages in exchange did the idea make boardroom agendas across the country. Those tax breaks are no pittance: the loss to the federal government in 1986 alone will be $2.5 billion. And, indeed, only 7 percent of the companies surveyed for *Employee Ownership* said they would have set up their employee-ownership plans without the tax breaks. Endorsed by "everyone from Paul Volcker to Tom Hayden, from the New York Stock Exchange to the Teamsters, from Ted Kennedy to Ronald Reagan, and from the Pope to the Chamber of Commerce," employee-ownership plans, which included only 500,000 workers a decade ago, now cover more than ten million.

Rosen et al focus almost exclusively on employee stock ownership plans (ESOPs), by far the most common form of employer ownership. Their survey of 45 representative companies and 3,700 employees yields valuable statistics supporting employee ownership. Some of the data contradict common assumptions. The size of the share of the company that workers own, for example, and the reason a company sets up an ESOP don't seem to affect worker satisfaction or commitment.

The authors err by not balancing their enthusiasm for employee ownership with more than whispers about its problems. Faced with a takeover bid by Carl C. Icahn in 1983, Dan River, Inc. went private, ending its employees' pension plan and setting up an ESOP that gave workers 70 percent of the company. But those workers got few of the voting rights that usually go with ownership and received little decision-making authority. This, along with continued layoffs and plant closings, has made workers bitter. The authors only hint at the effect such abuses may have on public and congressional support and therefore on the continued growth of employee ownership. This is an important point because the Reagan administration's original tax reform plan would have done away with a number of the ESOP tax benefits. Nor is there much discussion of whether companies can sustain their great leaps in productivity and growth. The authors also fail to examine the risks employees take by depending on one company's continued success for their retirement benefits. If things go poorly, they can lose everything.

But that is, after all, the big risk in being a capitalist. Corporations struggling to remain competitive should recognize the value of spreading that risk among their workers, whose own best interest, unlike that of absentee shareholders, lies in the business's long-term efficiency and productivity. But reaping the reward for everyone depends on workers having not only a real investment in the product of their labor but also a real opportunity to affect that product's success or failure.

—*Kitry Krause*

Feminine Leadership, or How to Succeed in Business Without Being One of the Boys. Marilyn Loden. *Times Books, $16.95.* Now that women are being told that it's okay to dress pretty again and to stay home all day if that's what makes them happy, the time is probably ripe for a book celebrating the uniquely "feminine" qualities of women in management. Still, it's startling to hear a woman talk about women in sweepingly sexist terms. After interviewing what one must assume was an extremely limited number of women in business, Marilyn Loden concludes, "Women are more likely to stress cooperation over competition, teamwork over hierarchical structures, intuitive rather than exclusively rational reasoning, and an emphasis on long-term quality gains over short-term successes." Next she blames all of the ills of American industry—including productivity losses and massive trade deficits—on men, whose single-minded emphasis on giving orders and acting tough apparently is at the root of worker alienation and the overly strong U.S. dollar.

Over the years I have had the following bosses (among others):

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an emotional small business owner who elicited hard work and loyalty through a combination of warmth and occasional temper tantrums; a mousy entrepreneur whose business failed because of insufficient attention paid to the books; a flinty-cool government appointee who worshipped schedules and hated dealing with subordinates; and an intuitive yet easily distracted bank president who once invested five hours of the top brass's time in a discussion of the company Christmas card. So, now guess: which of them was male and which female?* And so what? Never mind praising women in management because they supposedly have cornered the market on intuition and team spirit; how about a book for both sexes on how to be a better boss?

When Loden isn't lumping all women together as kind and caring (and all men as remote and impersonal), she is dancing around the topic of sex discrimination. Instead of being angry at men for discriminating against women, she rebukes women for attempting to compete in the male power structure on male terms. Glossing over the powerful cultural influences that contribute to sexual stereotypes, she asserts that women are born different—and "vive la difference!"

It's hard to say what's sadder—that the masculine leadership style can so often be obtuse and insensitive or that this longtime management expert is asking women to help improve the workplace not by being more competent but by being more womanly. Loden says she has identified a "groundswell of interest in the feminine leadership style developing among men and women in business who recognize the important role it can play in improving productivity, encouraging innovation and raising employee morale." Most people I know simply would like to work for a boss with charisma who knows how to tap people's skills and give them a personal stake in the future of the enterprise.

—*Deborah Baldwin*

**Respectively: male, male, female, female.*

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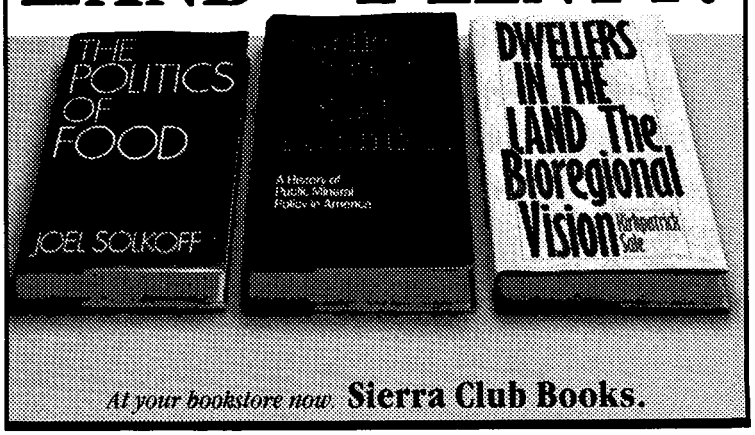

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Saudi Arabia: The Ceaseless Quest for Security. Nadav Safran. *Belknap/Harvard University Press, $29.95.* Nadav Safran has amassed a wealth of information on Saudi foreign policy from 1964 to 1982, an impressive accomplishment given the closed nature of Saudi society and the paucity of good source material on the topic. But Safran's greater accomplishment is an insightful analysis that weaves together four important strands: the politics of the Saudi ruling elite, events in the Persian Gulf, developments in the Arab-Israeli conflict, and American involvement in the Middle East.

Well known for their political timidity, the wealthy Saudis generally have followed the consensus in the Arab world. Safran attributes the recent unpredictability of Saudi foreign policy in part to the decentralization of authority within the country, especially that which occurred during the reign of King Khaled following Faisal's death in 1975. Under Khaled, the kingdom moved toward a more collective style of leadership, one that produced divisions within the ruling family and hence an indecisive and ambiguous foreign policy. Safran argues that the disintegration of the moderate Arab consensus in the wake of the Iranian revolution and Egypt's expulsion from the Arab League threatened the Saudi's strategic position in the Gulf and further contributed to their unpredictable behavior.

The Saudis, says Safran, have been forced to choose between closer relations with the United States and alignment with Syria and Iraq. Dependence on American security guarantees was incompatible with pan-Arab sentiment, while attempts to juggle relationships with Syria and Iraq were complicated by clashes between Damascus and Baghdad over the Iranian revolution and the Soviet invasion of Afghanistan.

As usual, the Saudis have avoided making clear decisions. Whatever the tilt of Saudi policy, though, it has become clear that the United States has fallen out of favor in Riyadh. A lack of American understanding of the pressures felt by the Saudis aggravated the strain in relations, says Safran, who warns that Washington unwisely continues to depend on Saudi Arabia for providing strategic access to the Gulf and for maintaining the flow of adequate supplies of oil to the West. He counsels, "America's long-term aim should be to disengage its vital interests from the policy and fate of the Kingdom."

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Shortly after the release of this book, it was revealed that Safran had accepted two grants from the CIA—$107,430 for his book and $45,700 for a conference on Islamic fundamentalism. Although he listed other funding sources in his acknowledgements, Safran honored an agreement with the CIA to forgo mention of its grant and to clear the contents of the book with Agency officials. As a result of the reports about CIA funding, approximately half of the expected participants failed to attend the conference.

Safran's text lacks documentation for some key events and interpretations, indicating that he relied on confidential sources, perhaps some in the American intelligence community. This in itself does not warrant criticism; much information on Middle East security simply is not available on the public record.

Safran's mistake was agreeing not to reveal one of his key sources of financial support. By doing so he raised unnecessary suspicion about his intellectual integrity and independence. If he feared that a public link to the CIA would have jeopardized his contacts in the Middle East or discouraged potential conference participants, he should have gone elsewhere for support.

—*Charles Kupchan*

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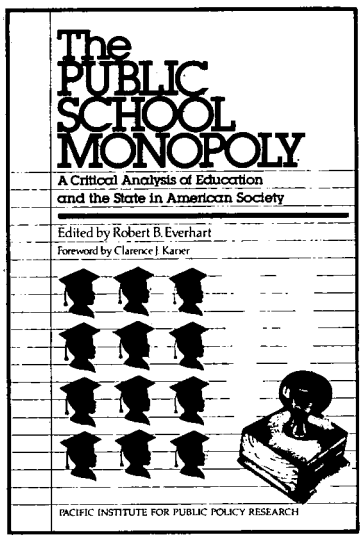

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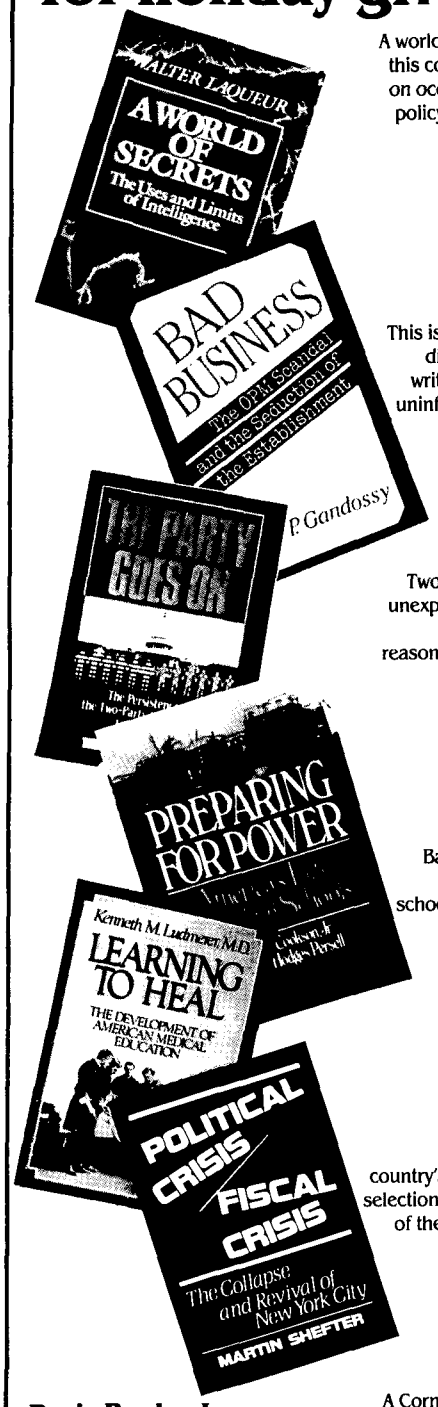

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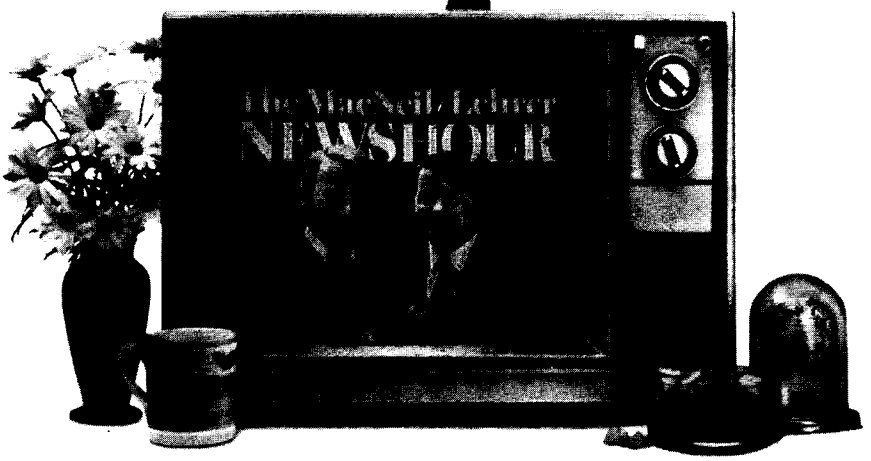

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